City of Lafayette Memorandum

To: City Council, Planning Commission

From: Lindy Coburn, Associate Planner

Date: September 30, 2008

Subject: Packet for the **October 9, 2008** Joint Meeting with the City Council & Planning Commission

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Please note that the packet for the October 9, 2008 Joint Meeting is the SAME as the one prepared for the June 23, 2008 meeting. No new materials have been prepared.

The goal of the meeting is to obtain direction on what key components to include in the draft Inclusionary Housing Ordinance.

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Please note that the packet for the October 9, 2008 Joint Meeting is the SAME as the one prepared for the June 23, 2008 meeting. No new materials have been prepared.

City of Lafayette Staff Report

For: City Council
By: Staff and Housing Consultants
Date Written: June 2, 2008
Meeting Date: June 23, 2008
Subject: **Inclusionary Housing Ordinance Follow-up**

Meeting Outline

INTRODUCTION & GOALS
The Joint Meeting will begin by staff providing an overview of Inclusionary Housing and areas that are governed by Redevelopment Law (no discussion needed) and areas that can be tailored to meet City needs (direction requested).

KEY COMPONENTS
Staff will present, one at a time, each key component that necessitates discussion and will seek direction before moving forward to the next one. If additional research is needed on a particular item to reach a consensus, staff will note this and move on to the next item. The goal is to narrow the discussion with each meeting until direction has been provided for each of the key components. The Focus Questions handout (see attached) will be the guide to this discussion.

QUESTION PERIOD
A question period will follow to address any of the previously raised questions (listed and addressed in the following sections of this report), and any new questions that may not have been covered. Any new questions will be noted and responded to at a subsequent meeting, if needed. Public comment will be provided during the question period.

CONCLUSION
Staff will summarize the components that have reached consensus, those that warrant further research, and new questions posed. A follow-up joint meeting will be requested if needed.

Purpose

1. Review the recommendations made by the stakeholders committee, staff and housing consultants
2. Approve the components of an inclusionary housing program
3. Direct staff to draft an ordinance

Overview

California Redevelopment Law (RDA Law) establishes requirements for affordable units within the Redevelopment Project Area (RDA). Development *within* RDA must comply with these standards and there is limited interpretation or modification to these standards. While limited, the City does have some discretion and seeks direction on:

- What are the triggers for it? *(how many new units)*

The larger discussion remains about the areas *outside* the RDA, which is not governed by the RDA Law and can be tailored to the community's needs. For ease of use, cities have found implementation of these areas simplified by providing consistency with RDA Law and/or with other community's IZ programs.

- Should IZ apply? By what percentage *(15% or 10%)*
- What are the triggers for it? *(how many new units)*
- Once triggered, how does the City apply fees/build requirements? *(split or single targets)*
- How long should the unit remain affordable? *(consistent with RDA Law)*

Background

At the May 12th Joint Meeting on Inclusionary Housing, staff made a brief presentation to accompany the staff report and consultants' reports. Although several components for an inclusionary program had been previously discussed and Council had provided direction to staff in 2004 through 2005, the stakeholders committee, staff and housing consultants have offered alternative suggestions and updates for several components for which further direction was sought.

Further, when the original studies were completed on inclusionary zoning, especially in terms of the economic structure of a program and the development of an in-lieu fee, staff determined that the material had been outdated and requested new analyses from Keyser Marston (KMA). The new analyses indicated adjustments to the proposed program. All of the updated information from these analyses, as well as the current recommendations for the Inclusionary program, were included in the May 12th packet and are again attached to this staff report.

Questions

A number of questions were posed at the May 12th meeting involving a broad number of issues and concerns, both from the Council/Planning Commission and concerned residents. In addition, Planning Commissioner Curtin sent a follow-up email with additional questions. The following are the staff and consultant responses to these questions.

1. ***What is the area of available land in the RDA for condominiums and apartments? On this land availability number, how many affordable housing units can be projected? What is the possible revenue that may be obtained from an inclusionary fee or building requirement.***

The General Plan provides a table (Table 23 of the Housing Chapter) outlining residential buildout potential for vacant and underdeveloped land in Lafayette. The sections that fall within the RDA include the multifamily, retail, office, and special use zoning districts. Based on the table, the number of potential units for condominiums and apartments in the RDA is approximately 550. Of that potential buildout, 15% would be set aside for affordable housing units, for a projected total of 83 affordable housing units. See the attached excerpt from Table 23 of the Lafayette General Plan.

Within the RDA, the units require a split with 40% at Very Low Income and 60% at Low and Moderate Income. Of the 83 total projected units, 33 units would be affordable to Very Low and 50 units affordable to Low and Moderate. Based on the Economic Analysis Condo Table 6, which lists the affordability gap for each level, this is calculated as follows:

33 units @ $476,300 each = $15,717,900
50 units @ $236,700 each = $11,835,000
Total possible revenue = $27,552,900

Per market rate unit, we can divide the above by 550 and we get ~$50,000 as an in lieu amount per market rate unit. This figure provides a ballpark estimate and does not take into consideration the unknowns, such as rental units, unit size, land costs and construction fees. This possible revenue would not likely cover the Agency's cost to buy land and complete a project without utilizing outside sources or its 20% set aside.

2. ***Has the City considered applying the inclusionary zoning ordinance to commercial/office uses as opposed to just residential uses?***

Typically, jurisdictions do not levy an inclusionary requirement on commercial or office uses but rather develop a commercial linkage fee for such developments. Should the Council determine that this is worth exploring and would like to add this to the work plan; staff will conduct the studies to develop a commercial linkage fee that could be imposed on new commercial and office development. This would require adoption of a separate ordinance.

3. ***How is the cost of affordable units absorbed into the project? Aren't market-rate buyers subsidizing the affordable units?***

Market-rate buyers are **not** subsidizing the affordable units. As was illustrated in the staff report, research indicates that, like other costs of development, affordability requirements are ultimately reflected in adjusted land sales prices. As an example, if a piece of land has an easement on it that prevents development in a certain section of the property, the value of the land is adjusted to reflect that not all of the land can be built on. Similarly, when buyers and sellers of property know that an inclusionary requirement is in place, the sales price is accordingly negotiated to reflect that requirement.

Another illustration is helpful. Developers sell units according to what the market will bear. If a unit's market value is $500,000, it will be sold for $500,000. Developers would not "add" more to the price to pay for the affordable units that are required; if they could sell it at

$550,000, for example, they would have sold it for that price in the first place. Furthermore, if the market value of a unit is $500,000, a buyer would not pay $550,000. And, if all a buyer can afford is $500,000, then the buyer will not spend $550,000. Ultimately, the price for a unit is dependent on what the market will bear; it is not directly affected by the affordability requirement.

4. ***What is the value of implementing an inclusionary program if the projected number of units in the future is relatively small?***

The value of the inclusionary program is not necessarily in generating a large number of affordable units, but rather any affordable units at all. It is extremely difficult for communities to generate the kind housing that is needed by all economic segments of the population without using a variety of tools to create that housing. Inclusionary zoning requirements are one tool among many that communities implement in order to ensure that their residents have the kind of housing opportunities they need.

In fact, the Lafayette RDA's inclusionary housing requirements has produced 15 Very Low, 1 Low, and 1 Moderate units to date and will produce additional affordable units (18 from The Woodbury project, for example) in the future. Absent this requirement, Lafayette would not have been able to meet much of its affordable housing obligations.

5. ***Can the City use second units as a way to address the inclusionary requirements?***

Second units, sometimes called granny flats and other names, refer to accessory units with kitchen and bath that are suitable for renting out as separate units. Cities often adjust codes to handle parking and other issues relevant to second units in single family residential neighborhoods. Developers often favor them as a means to meet inclusionary requirements because buyers are usually willing to pay for them. They can be added over garages, on separate levels and other locations, even freestanding. Buyers are willing to pay for them because the extra separated space can be useful for teenagers and "boomerang" children, extended family members, houseguests and other assorted needs.

Using second units as a way to comply with the inclusionary requirements as proposed will probably not work. The reason for this is the affordability restriction requirements. In the inclusionary zoning program, affordable units are required to be restricted (55 years for rental housing and 45 years for ownership housing). In order to ensure that second units are in compliance, restrictions would be required to ensure long-term affordability. Counting second units towards an inclusionary requirements means that the units need to be occupied by qualified tenants and their use needs to be monitored. Deed restrictions should set out requirements: the units are to be rented on a regular basis, the tenants need be income qualified like other tenants in, say, apartment building affordable units. (This clearly might exclude what the buyers have in mind for the units. Also, buyers of luxury homes do not tend to be enticed by the extra income from renting an affordable unit, unless there are extenuating circumstances.)

From the City's perspective, these units either mean administrative costs for monitoring and enforcement issues that can be unpleasant, or letting them be built and let go of the results, acknowledging that the units might initially serve an affordable housing purpose but without any guarantees. As a result, cities either exclude them from the program entirely, allow them but look the other way, or encourage them and proceed accordingly. Santa Cruz, for example, actively encourages them, has revised codes to accommodate them more readily, and has committed to the oversight and administration necessary to make them a meaningful contribution to the supply of affordable units

6. ***For all intents and purposes, won't the inclusionary zoning program only impact single-family areas outside of the Redevelopment Area?***

Outside of the Redevelopment Area is predominantly single-family zoning; however there are multi-family projects that it could also address. For example, it could apply to Planned Unit Developments (PUD) such as the Lafayette Park Terrace project for 20 new condominiums located on Mt. Diablo Court which is a pending application, rezoned properties adjacent to multifamily zoned districts, Two-Family Residential District (D-1), and Administrative/Professional Office District (APO). See the attached map showing these areas located outside of the Redevelopment Project Area. The inclusionary zoning program will only impact projects creating 3 or more units.

For projects involving single family units, staff recommends that an in-lieu fee be collected for those creating 3 to 9 units, and for projects over 10 units, the affordable unit could be built onsite, offsite, or a customized fee established. These fees would be used for the production of affordable housing where they can be best accommodated.

7. ***How are homeowner association dues factored in to the affordable price of the condos?***

The formula for determining the affordable price by income level takes into account homeowners association dues, insurance and property tax as "Ongoing Expenses." Income allotted to housing is set by formula (usually 30% or 35% of gross income, depending on the income level). After the amount allotted to housing is established, On-going Expenses are deducted and the remaining amount is "Income Available for Mortgage." From this figure the amount of mortgage supported plus down payment is used to determine affordable sales price.

In the July 31, 2007 Economic Analysis memorandum, KMA presented the calculations in Condo Table 1. In this table, the allowance for homeowners association dues (HOA) and insurance is $325 per month for a one bedroom unit, $350 for a two bedroom and $375 for a three bedroom. Also included in On-going Expenses is property tax at 1.1% of the unit sales price. The HOA dues amount does not vary by affordability level but the property tax does. These allowances were based on surveys at the time KMA did the analysis.

In terms of program application, many cities ask the developer to supply the expected HOA dues and use it in the formula to establish the sales prices at the applicable affordability level. The calculation is revised as necessary throughout the project and entitlement and

development process. Project-specific pricing is particularly relevant in cities with a substantial range in the HOA dues for new condominium projects. HOA dues tend to range with the level of amenities associated with the project; in general, luxury condominiums charge higher dues than non-luxury products. Adjusting the sales price for the HOA dues keeps the homebuyers' total monthly expenditures on housing approximately equal throughout the City.

Substantial increases in HOA dues can be a problem for affordable unit owners, particularly in older projects that must do assessments to pay for major capital improvements that have not been adequately funded in the reserves. Obviously, circumstances vary, and problems are likely to be more severe with the lower affordability level households.

8. ***Clarify how the costs of the inclusionary program are born by the adjusted purchase price.***

The requirement to add inclusionary units results in substantial costs to a project compared to being allowed to build all market rate units. These costs cannot be passed on to other purchasers because buyers will not pay more because the development costs more; buyers pay what the market will bear relative to the desirability of the unit, the location and the community. Nor will the developer build for a lesser profit (unless the developer is unlucky enough to have purchased land and planned a project under one set of conditions and must sell units under a different set of conditions as a result of an unanticipated City policy.) The land price is the variable that adjusts, over time, to absorb the increased costs of development within the community.

Since Lafayette has been implementing inclusionary requirements in the redevelopment area for over a decade, and the intention to expand the program citywide has been clear for many years now, in our opinion, land prices have already largely adjusted to account for the requirements.

9. ***Explain why the proposal for the in-lieu fees are so much lower than the actual affordability gaps. If the actual affordability gap is $30 per SF, why is the proposal for $15 per SF?***

The July 2007 Economic Analysis demonstrates that the cost to provide on-site units results in a cost equivalent of over $30 per square foot of market rate units. The City could, if it chooses, charge as high a fee as can be demonstrated by the cost analysis (or even higher if it raises the percentage of units for off-site or in lieu payment compliance, as does the City of San Francisco). Or the City may charge any amount it chooses under the demonstrated cost burden.

The KMA memo suggests that the City impose a $15 per square foot fee to be comparable with what several other communities charge. Walnut Creek, for example, charges up to $10 per square foot. Other communities, such as Pasadena, San Francisco, and San Rafael, do charge "full cost recovery" or far closer to it. The fee could be adjusted or further analysis provided to provide a fee structure that meets Lafayette's goals.

Note: It is useful to remember the primary use of the fee will be for small projects and for fractional units. For larger projects (10 or more units), the recommendation is for a customized analysis to establish the full cost and for the City to negotiate the inclusionary requirement (fee or otherwise) on a case by case basis.

10. Shouldn't the affordability gap equations be distributed across 9 units rather than the 10 as the example shows?

As long as one is consistent with how the fee is applied, one could do either. For the purposes of establishing an in lieu fee, KMA distributes the affordability gap over all 10 units in a 10% program. This way, when the City calculates a project's fee, the City must only take the total number of units in the project and multiply that by the per unit fee.

If the affordability gap for the tenth units were distributed over the nine market rate units, then the in-lieu fee would have to be applied to nine units and then no fee on every tenth unit. In this scenario, the City would have to calculate the total number of market rate units and the number of affordable units in the project were the project to build on-site, and then apply the fee only to the market rate units. The average fee per unit for the whole project would compute to the same as the current analysis.

Using the figures from the July 2007 Economic Analysis, Condo Table 7, the affordability gap for low income is $415,200. On-site, this burden would be born by nine units at $46,133 each. Unit #10 has no additional cost. For 10 units paying the fee instead, each unit is allocated $41,520 for a total of $415,200. This average can then be applied to any number of units without any adjustments.

In summary, distributing the affordability gap over ten units eases the administration of the program for the City while generating the same total in-lieu amount.

Stakeholders Committee

At the May 12, 2008 Joint Meeting, members of the stakeholders committee attended and offered additional comments and questions. A member of the committee also attended a later Council meeting and suggested that staff arrange another stakeholders' meeting to address outstanding questions and comments. The Council asked staff to check with the stakeholders to see if another meeting would be needed prior to the June 23rd Joint Meeting with the City Council and Planning Commission.

Staff sent an email to the stakeholders polling whether there is interest in having another meeting before the Joint Meeting. Of the 15 stakeholders, staff received 3 votes NO, 2 votes YES, and 10 did not respond (see attached email). Given the response, staff did not arrange a stakeholders' meeting but invited the stakeholders to email any questions or comments for staff to include in the next staff report. Staff received the following questions from a stakeholder:

1. How much revenue could the City expect to generate by including IZ in the residential neighborhoods?

See response to question #1 on pages 2-3 of this staff report.

2. Why should the City consider imposing IZ requirements outside the RDA?

   The City wants to maximize opportunities to provide affordable housing throughout the City. Inclusionary zoning is one among many tools to achieve the City's goals of providing housing that is affordable to all economic segments of the community.

3. Can the City use the revenue generated from an IZ program to create affordable units outside the City where there is adequate land and resources at a reasonable cost?

   Fees generated within the RDA cannot generally be used outside of the City; in some limited cases it is possible to transfer inclusionary obligations (including fees) to other jurisdictions, but the requirements to do so are extremely cumbersome. Essentially, the City would have to enter into a Joint Powers Agreement with a contiguous jurisdiction within the same housing market to transfer such funds, but only after a number of requirements had been met, including but not limited to the following:

   (1) The community of each participating agency must have adopted up-to-date housing elements, and the housing elements have been determined to be in compliance with the law by the Department of Housing and Community Development.

   (2) The community of each participating agency must have met, in its current or previous housing element cycle, 50 percent or more of its share of the region's affordable housing needs in the very low and lower income categories of income groups.

   (3) Each participating agency must hold, at least 45 days prior to the transfer of funds to the joint powers authority, a public hearing, after providing notice to solicit public comments on the draft agreement.

   (4) No housing funds can be transferred from a project area that has an indebtedness to its low- and moderate-income housing fund.

   (5) No housing funds can be transferred from an agency that has not met its need for replacement housing, unless the agency has encumbered and contractually committed sufficient funds to meet those requirements.

   (6) Pooled funds must be used within the participating agencies' jurisdictions.

   (7) The agreement must require compliance by the joint powers authority with the provisions of law.

   (8) The joint powers authority must ensure that the funds it receives are used in accordance with the requirements of the law

(9) Funds transferred by an agency to a joint powers authority must be expended or encumbered by the joint powers authority for the purposes of this section within two years of the transfer. Transferred funds not expended or encumbered by the joint powers authority within two years after the transfer must be returned to the original agency and will be deemed excess surplus funds. Excess surplus funds held by an agency may not be transferred to a joint powers authority.

(10) The joint powers authority must prepare and submit an annual report to the department that documents the amount of housing funds received and expended or allocated for specific housing assistance activities consistent with redevelopment law.

All of requirements make the transfer of fees collected within the RDA very cumbersome. The fact that the funds must be expended in jurisdictions within the same housing market as Lafayette means that the likelihood of being able to spend the funds in more "affordable" areas is also in doubt.

Other fees, collected in non-RDA areas, could conceivably be offered to other jurisdictions for use in their communities without such stringent processes as RDA law requires. However, it is unclear whether the City would materially benefit from such an arrangement, since the City does need affordable housing within the community itself, regardless of whether or not other jurisdictions' land costs might be less per acre (labor costs and construction costs in the Bay Area are essentially the same wherever one goes). Ultimately, the best use of any fees collected would be to use such funds as subsidies for affordable housing within Lafayette itself.

4. Will an IZ program increase homeowner dues (for condo units)? Who is paying for these IZ units?

   See response to question #3 on pages 3-4 of this staff report and pg. 4-6 of the May 12th staff report.

Recommendation

Approve the key components of the inclusionary program for Lafayette. Direct staff to prepare an ordinance.

Attachments

Materials prepared for the June 23, 2008 Joint CC/PC meeting:

1. Focus Questions for discussion
2. Map – Multifamily Residential Possibility Outside the Redevelopment Project Area
3. Table 23 Except from General Plan – Residential Buildout Potential for Vacant and Underdeveloped Land in the Redevelopment Project Area
4. Email to the stakeholder's committee

Materials prepared for the May 12, 2008 Joint CC/PC meeting:

1. Executive Summary, May 12, 2008
2. Joint Meeting Staff Report, May 12, 2008
3. Key Components Table
4. Potential impact of subprime mortgage crisis on IZ programs, dated March 5, 2008
5. KMA Summary and Recommendations Memorandum, dated July 31, 2008
6. KMA Updated Economic Analysis, dated July 31, 2007

Materials prepared
for the **June 23, 2008**
Joint CC/PC meeting

Inclusionary Housing Joint CC/PC Meeting • June 23, 2008

Direction to staff for preparation of draft ordinance. Direction is NOT a final decision, rather a starting point for drafting the ordinance and forthcoming detailed deliberation. Staff recommendations are *italicized.*

These numbers correspond to the numbering on the Key Components Table.

4. Inclusionary Percentage Requirement

What percentage of the units in a project should be made affordable? (Staff Report, May 12, 2008: pg. 9)

Within the RDA	Outside the RDA
☐ 15% (RDA law)	☐ *10%*

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2. Development Size Threshold

What size project should trigger the requirement for affordable housing? (Staff Report, May 12, 2008: pg. 9)

Within the RDA	Outside the RDA
☐ *≥ 7 units (required to produce on or offsite)* *3-6 units (in-lieu fee allowed for partial unit)*	☐ *≥ 10 units (required to produce on/offsite or customized fee analysis)* *3-9 units (in-lieu fee allowed for partial unit)*

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5. Affordability Restrictions

What level of affordability should the BMR units be held to? (KMA memo, July 31, 2007: pg. 11-12)

Within the RDA

All Housing:

☐ 15% affordable to very low-, low- or moderate-income households, of which 40% (or 6% of the total units) must be affordable to VLI households (RDA law)

Outside the RDA

Multi-Family Rental:

☐ 1st very low, 2nd low, 3rd unit moderate continue cycling in this manner.

☐ *Low income, only.*

Multi-Family For Sale:

☐ Cycle 1st unit moderate, 2nd unit low continue cycling in this manner.

☐ *Moderate, only.*

Single-Family For Sale:

☐ *Moderate income, only.*

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8. Terms of Affordability

How long should the BMR pricing last for the unit? (Staff Report, May 12, 2008: pg. 10)

Within the RDA	Outside the RDA
☐ Multi-Family Rental: 55 years Multi-Family For Sale: 45 years (RDA law)	☐ *Rental: 55 years* *For Sale: 45 years*

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9. In-Lieu Fees

How should the city establish in-lieu fees? (KMA memo, July 31, 2007: pg. 6-8 & Exhibit 3)

☐ Per affordable unit owed (cost to construct):
- **Apartments**: $165,000 to $350,000
- **Condos**: $240,000 to $415,000
- **Single Family Detached**: $590,000 to $1,000,000

☐ Per market rate unit (fee assessed to each market rate unit):
- **Apartments**: $16,500 to 35,000
- **Condos**: $24,000 to $41,000
- **Single Family Detached**: $60,000 to $105,000

☐ *Per square foot area:*
- ***Apartments**: $10 to $15 per square foot.*
- ***Condos**: $15 to $20 per square foot*
- ***Single Family Detached**: $30 to $40 per square foot*

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11. Exemptions

Should the city allow exemptions to the ordinance? (Staff Report, May 12, 2008: pg. 6-7)

☐ Yes. The stakeholders and council agreed that exemptions, concessions and waivers be allowed. *These should be consistent with the Napa decision.*

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13. Priorities

Can the city give priority to those who work in Lafayette?

☐ *No. The City Attorney advised that this is contrary to fair housing laws at the state and federal level.*

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19. First-Time Homebuyer Requirement

Can the city restrict the availability of affordable units to first-time homebuyers?

☐ *Yes. First-time homebuyers have been defined as those who have not owned property within the last 3 years, according to industry standard. The city may want to expand the definition of "first-time homebuyer" to comply with this standard.*

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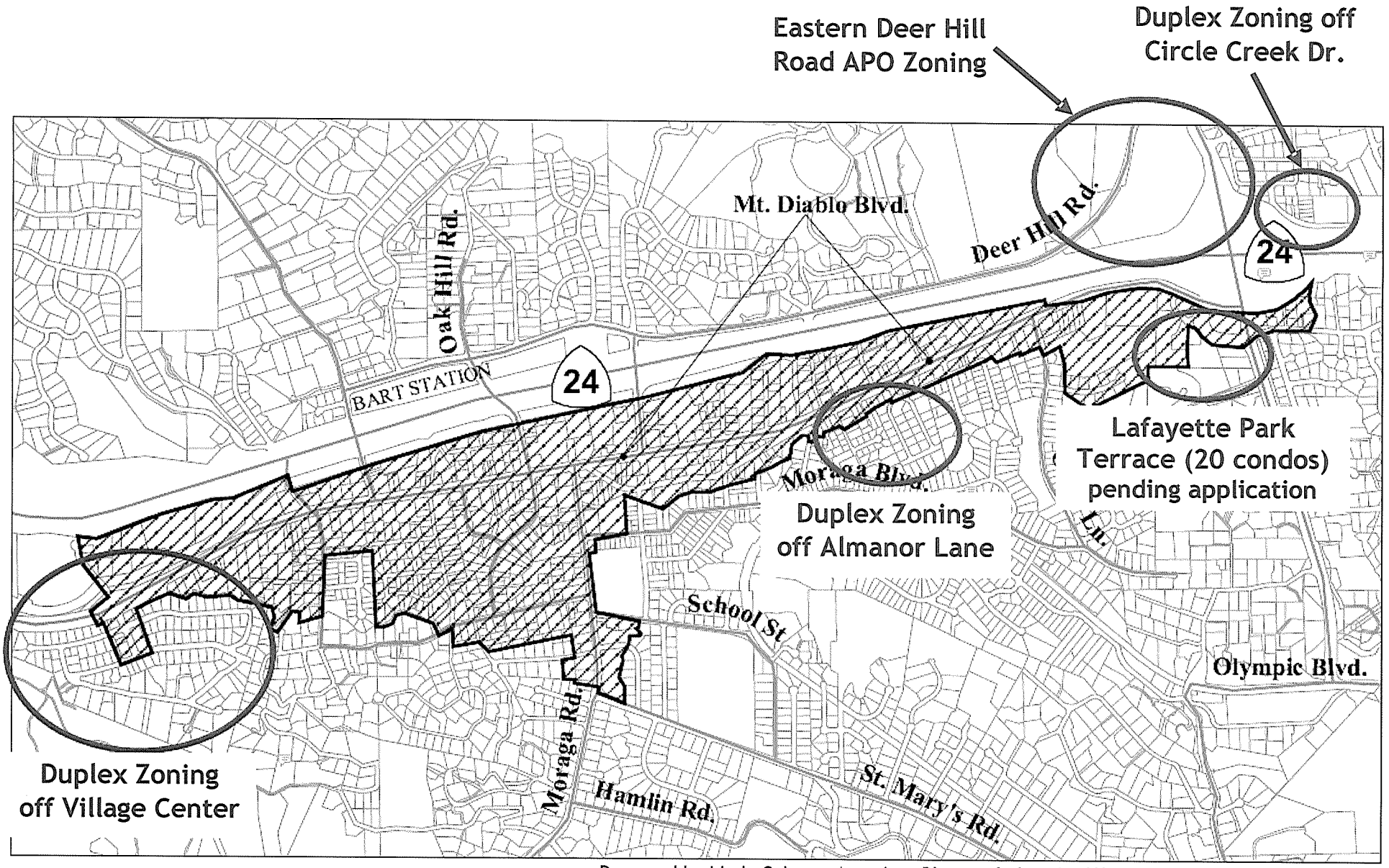
20. Resale Controls

How will the city control resale of affordable units? (KMA memo, July 31, 2007: pg. 14 & Exhibit 4)

☐ *Seller will receive an amount tied to the increase in median income and compensation for capital improvements. The city may want to add a provision to ensure that the seller will not take a loss on the sale. (consistent with RDA law)*

MULTIPLE-FAMILY RESIDENTIAL POSSIBILITY OUTSIDE THE REDEVELOPMENT PROJECT AREA



Prepared by Lindy Coburn, Associate Planner & Greg Wolff, Senior Planner • June 9, 2008

EXCERPT FROM TABLE 23 • LAFAYETTE GENERAL PLAN

RESIDENTIAL BUILDOUT POTENTIAL FOR VACANT AND UNDERDEVELOPED LAND

Existing General Plan Land Uses	Corresponding Zoning Districts	Number of Acres		Potential Number of Units	
	Zoning	Within City Limits	Within Sphere of Influence	Within City Limits	Within Sphere of Influence
Retail	**RB, SRB**	9.1	0	127	0
Office	**MRO, -APO, MRP**	26.3	0	140	0
Special Use	**C, C-1**	7.6	0	284	0
TOTAL:		43	0	551	0

SOURCE: CITY OF LAFAYETTE COMMUNITY DEVELOPMENT DEPARTMENT, 2001

Assumptions

1. Table 21 assumes residential buildout of commercially zoned parcels at densities of 30 du/acre (housing only projects) and 20 du/acre (mixed use projects).
2. Acreages are gross acres which have been factored by 80 percent to take into account right-of-ways and other requirements.
3. The above commercially zoned parcels are zoned for commercial as well as for multi-family residential uses.

Prepared by Lindy Coburn, Associate Planner & Greg Wolff, Senior Planner • June 9, 2008

Coburn, Lindy

From: Coburn, Lindy

Sent: Thursday, June 05, 2008 7:04 PM

To: Coburn, Lindy; 'Barbara Wille'; 'Bielle Moore'; 'Bob Glover'; 'Byrne Mathisen'; 'Christina Wong'; 'Diana Elrod'; 'Guy Atwood'; 'Jay Lifson'; 'Jim Fitzsimmons'; 'Joanne Archer'; 'Kate Funk'; 'Lynn Hiden'; 'Pam King Palitz'; 'Pat Snyder'; Subramanian, M; 'Terry Turner'; 'Tim McKinley'

Subject: FOLLOW-UP- Lafayette Inclusionary Housing

Thank you for your feedback. Of the 15 stakeholders, staff received the following responses as to whether to have another stakeholder's meeting prior to the June 23rd joint City Council and Planning Commission meeting:

- 3 votes NO
- 2 votes YES
- 10 no response

Based on the feedback above, it appears that a majority do not feel it necessary to have another stakeholder's meeting at this time. However, if any members have questions or comments that they'd like staff to address, please email them to me and I'd be happy to include them in the next staff report.

Thanks again for all of your time and feedback on the matter. Hope to see you all on the 23rd!
Lindy

From: Coburn, Lindy
Sent: Friday, May 30, 2008 5:12 PM
To: Barbara Wille; Bielle Moore; Bob Glover; Byrne Mathisen; Christina Wong; Diana Elrod; Guy Atwood; Jay Lifson; Jim Fitzsimmons; Joanne Archer; Kate Funk; Lynn Hiden; Pam King Palitz; Pat Snyder; Subramanian, M; Terry Turner; Tim McKinley
Subject: Please Reply - Lafayette Inclusionary Housing

Thank you to all who attended the Joint Meeting with the City Council and Planning Commission on May 12, 2008 to discuss inclusionary housing. At that meeting, the Council and Planning Commission had a number of questions and requested a follow-up meeting to revisit the matter.

The next joint meeting with the City Council and Planning Commission will be on **Monday, June 23rd** to discuss the key components and staff will draft written responses to questions previously raised. The Council asked staff to check with the stakeholders to see if another Stakeholder's meeting is needed prior to the next joint meeting.

Please reply with a **YES** or a **NO** to indicate whether you are interested in attending another Stakeholder's meeting prior to the June 23rd joint meeting. Please send this reply by Tuesday, June 1st to allow time to set-up a meeting with the stakeholders if the majority requests it. I will send a follow-up email indicating what the majority feedback is. If you respond "YES" – please indicate what you would like to cover at the meeting.

Below is a summary of questions and comments previously raised by the stakeholders. Click here to see the agenda, staff report and attachments for the May 12, 2008 Joint Meeting with the City Council and Planning Commission.

Stakeholders Comments

During 2005, the Stakeholders Group met a number of times to discuss the concept of inclusionary zoning and provide input to staff and the consultants as they were crafting the components of such a program. In February of this year, more information was provided to the group, including updated market analyses and recommended in-lieu fees from Keyser Marston. At that meeting, a question was raised as to whether jurisdictions have experienced any negative impacts in their inclusionary programs as a result of the subprime mortgage crisis and the credit crisis in general. City staff and Keyser Marston surveyed a number of jurisdictions in the Bay Area and State where this concern may be strongest.

Attached is a summary of those responses. As expected, these jurisdictions generally have not experienced overwhelming concern in their for-sale inclusionary units, since the process for selecting buyers is much more controlled than the regular market has required. Most underwriting criteria require buyers to be qualified for a conventional loan, and many jurisdictions provide extensive training to their affordable buyers to avoid the kinds of problems that have been experienced in the general market.

The City has received written comments from the Greenbelt Alliance, since their representative was unable to attend the final Stakeholders meeting. The following lists these three comments, with City responses in italics.

1) Inclusionary Percentage Requirement: Greenbelt Alliance would like a 15% city-wide requirement instead of the proposed 10%. *Comment noted. At this time, City staff will recommend a 10% requirement in non-Redevelopment Areas of the City. Once the program has been implemented and its success gauged more fully, the City can consider increasing the percentage requirement to 15%. A number of jurisdictions with inclusionary programs have taken a similar conservative approach at first, and raised the limit later.*

2) Affordability restrictions: Greenbelt Alliance is concerned about allowing moderate income level units in rental housing. We would like only Very Low Income and Low Income units in rental housing. In most of the Bay Area, that would still be ABOVE market rent. *The City has not recommended moderate income rental housing for the inclusionary program, but rather has recommended only lower-income units to be included in rental developments.*

3) Affordability restrictions: Almost all cities require a mix of affordability levels (e.g. 9% LI, 6% VLI for rental), Greenbelt Alliance would like to see a mix of affordability levels. All moderate is OK for ownership, but we would still like Very Low Income in the rental mix. Comment noted. *The percentages listed in Greenbelt's comment of 9% and 6% pertain to Redevelopment Area requirements, which continue to be required in these areas. As staff and the consultants explained at the February Stakeholders meeting, there are a variety of reasons why targeting just one income group – specifically, low-income rather than a mix with very low-income – will be proposed. For example, affordable developments with government subsidies tend to be more competitive with very-low income units, since both federal and State funding sources are targeted to those of greatest need. Further, since the expectation is that developers of inclusionary units will not receive City subsidy for the required units, a program with only a low-income requirement would be less onerous than very low-income since the affordability gap is significantly less for low-income. Lastly, from a management standpoint, having a single income category will assist in implementation of the program.*

Lindy Coburn
Associate Planner
City of Lafayette
(925) 299-3202 [t]
(925) 284-1122 [f]
www.ci.lafayette.ca.us

Materials prepared
for the **May 12, 2008**
Joint CC/PC meeting

INCLUSIONARY HOUSING EXECUTIVE SUMMARY

On January 26, 2004, the City Council directed staff to prepare an inclusionary housing ordinance. In early 2004, the City, along with Contra Costa County, worked with a consultant to develop a list of key components to serve as the foundation for the ordinance and the inclusionary housing program. These components were considered by the Planning Commission and City Council in late 2004. City Council then directed staff to solicit input from interested groups including the homeowners and homebuilders associations. The first stakeholders committee meeting was held in December and the committee met on a regular basis until the fall of 2005.

In 2005, our housing consultant, Diana Elrod was hired to assist with moving forward with recommendations for a program. In 2007, Keyser Marston was hired to revise its study of the affordability gap between what lower-income persons and families can pay for housing, and housing that is market rate. Once the research was updated, the program components were presented to the stakeholders' group at two meetings for additional feedback.

This executive summary provides key points for the Planning Commission and City Council to consider as the City moves towards developing an inclusionary housing ordinance.

Background Information

Inclusionary zoning provides a vehicle for developing much needed affordable housing. While the details of each kind of program vary from jurisdiction to jurisdiction, in essence each similarly requires a development to contain some percentage of units as affordable. Most inclusionary zoning programs contain the following components:

- A minimum threshold for development that triggers the requirement (e.g., new projects with more than 10 units).
- A minimum percentage of units required to be affordable (e.g., 10% of all units in the development).
- Affordability requirements (e.g., of the units required to be affordable, 3% must be for very low-income household, 5% must be for low-income households, and 2% must be earmarked for moderate-income households).
- A term of affordability (e.g., 25-year affordability restriction).
- Resale restrictions, in the case of homeownership developments (e.g., equity share upon resale).
- Design requirements (e.g., affordable units must have the same amenities and must be no different in exterior appearance as the market rate unit).

Inclusionary zoning programs do not create new housing per se, but rather target the income of those units that are to be built. In addition to these basic requirements, many jurisdictions have allowed for the payment of a fee in-lieu of developers actually building the inclusionary units. Such a fee allows developers to, in essence, "pay out" of their requirement to provide actual affordable units. Also, many jurisdictions provide developers incentives in return for providing the affordable units including reductions in height and setback requirements, fee waivers, land

dedication exemptions, "fast track" or priority permits processing, density bonuses; and/or subsidies, etc.

Components Table

Attached to the lengthy staff report is a key components table, which provides a line-by-line explanation of the elements to the proposed inclusionary program. Although the vast majority of the components have not changed since the City Council last reviewed the table in May of 2005, there are several components which, based on extensive discussion and analysis between staff and our consultants, have been revised. These revised components are intended to be the focus of the discussion at the joint meeting (see the shaded rows in the attached Key Components Table).

Summary

After reviewing the status of existing and proposed inclusionary programs throughout the Bay Area, and in consideration of the wide range of comments received from various constituents, it is recommended that the City adopt an inclusionary zoning program with requirements that are generally consistent with the many inclusionary zoning programs throughout the Bay Area and the State. In some components of the proposed program, the requirements will track California Redevelopment Law, while elsewhere the components track other programs. This information is shown in a summary provided by Keyser Marston. Although one option would be the wholesale adoption, Citywide, of the already-existing inclusionary requirements from the Redevelopment Area requirements, a number of refinements have been made that would to enhance the overall applicability of an inclusionary program. In any event, a City inclusionary program could begin somewhat conservatively; after a few years of performance, the City can revisit these requirements to determine if changes are warranted.

Recommendation

Approve the key components of the inclusionary program for Lafayette. Direct staff to prepare an ordinance.

Attachments

1. Joint Meeting Staff Report, May 12, 2008
2. Key Components Table
3. KMA Summary and Recommendations Memorandum, dated July 31, 2008
4. KMA Updated Economic Analysis, dated July 31, 2007

City of Lafayette Staff Report

For:	City Council Planning Commission
By:	Diana Elrod, Lindy Coburn, Greg Wolff
Date Written:	May 1, 2008
Meeting Date:	May 12, 2008
Subject:	**Inclusionary Housing Ordinance**

Purpose

1. Review the recommendations made by the housing consultants
2. Review the recommendations made by the stakeholders committee
3. Approve the components of an inclusionary housing program
4. Direct staff to draft an ordinance

History

On January 26, 2004, the City Council approved the planning division's work plan consisting of twenty long-range studies; the majority related to housing element programs. One of the tasks was to prepare an inclusionary housing ordinance in accordance with the following implementation program in the General Plan:

> Program H-5.1.1: Establish an Inclusionary Housing Ordinance: Establish an Inclusionary Housing Ordinance to require developers of residential developments of ten (10) or more units in retail, commercial and multi-family housing zoning districts to provide up to 10 percent of their units at rents or purchase prices affordable to very-low to moderate income households. The definition of income category shall be in accordance with the income guidelines adopted by the United States Department of Housing and Urban Development (HUD).
>
> In addition, consider using the following performance criteria for inclusionary units: the exterior appearance of inclusionary units shall not be different than other units in the housing development of which they are a part; and inclusionary units shall be dispersed or distributed throughout the development rather than being concentrated in one portion of the development. Offer priority for occupancy of the inclusionary units to seniors and those who work in Lafayette.

In early 2004, the City of Lafayette, along with Contra Costa County, applied for a HUD grant to prepare this ordinance. In July 2004, HUD approved $78,065 in HOME technical assistance funds to hire a consultant to complete this task. The consultant, Melanie Shaffer Freitas, developed a list of key components that will serve as the foundation for the ordinance and the inclusionary housing program. These components were considered by the Planning Commission and City Council in late 2004. At its November 8, 2004 meeting, the City Council directed staff to solicit input from interested groups including the homeowners and homebuilders associations. The first meeting of the stakeholders committee was held in December and the committee met on a regular basis until the fall of 2005 to review the components of the ordinance. The stakeholders groups are:

1. League of Women Voters
2. Lafayette Homeowners Council
3. Home Builders Association of Northern California
4. Lamorinda Peace Group
5. Lafayette Chamber of Commerce
6. Greenbelt Alliance
7. Board of Realtors

Because of a number of conflicts (including the sudden illness of one of the key consultants), the issue of inclusionary zoning was put on hold until Diana Elrod, our housing consultant hired in 2005, could assist with moving forward with the research needed to present the Planning Commission and Council with recommendations for a program. In spring of this year, the City contracted with Keyser Marston to revise and update its study of the affordability gap between what lower-income persons and families can pay for housing, and housing that is market rate. Despite a significant downturn in the economy over the last few years, as could be expected the cost to provide housing continues to climb, making it difficult for those of modest means to afford a home in Lafayette.

Once the research was updated and finalized, the recommended program components were presented to the stakeholders' group at two meetings for additional feedback. A summary of the stakeholder comments are included below.

Background Information

Inclusionary zoning provides a vehicle for developing much needed affordable housing. It is often implemented as a Below Market Rate or BMR program, requiring developers of market rate housing to set aside or otherwise earmark a certain percentage of units as affordable to lower and/or moderate income households. While the details of each kind of program vary from jurisdiction to jurisdiction, in essence each similarly requires a development to contain some percentage of units as affordable. Most inclusionary zoning programs contain the following components:

- A minimum threshold for development that triggers the requirement (e.g., new projects with more than 10 units).
- A minimum percentage of units required to be affordable (e.g., 10% of all units in the development).
- Affordability requirements (e.g., of the units required to be affordable, 3% must be for very low-income household, 5% must be for low-income households, and 2% must be earmarked for moderate-income households).
- A term of affordability (e.g., 25-year affordability restriction).
- Resale restrictions, in the case of homeownership developments (e.g., equity share upon resale).
- Design requirements (e.g., affordable units must have the same amenities and must be no different in exterior appearance as the market rate unit).

It is important to stress that inclusionary zoning programs do not create new housing per se; what inclusionary zoning does is target the income of those units that are to be built. In other words, if a jurisdiction expects a total of 100 new units to be built in a given year, an inclusionary zoning program would simply direct some percentage of those 100 units to be affordable to lower incomes. It does not "create" an additional, say, 10 units on top of those 100 units.

VARIATIONS

In addition to these basic requirements, many jurisdictions have allowed for the payment of a fee in-lieu of developers actually building the inclusionary units. Such a fee allows developers to, in essence, "pay out" of their requirement to provide actual affordable units. Some jurisdictions have prohibited the payment of in-lieu fees in an effort to ensure that the units are included in the market rate development. At the other extreme, some jurisdictions have used in-lieu fees to generate substantial sums of money for development of additional affordable housing off-site through more traditional arrangements such as providing subsidies to nonprofit housing developers.

Still other jurisdictions only allow the payment of in-lieu fees for fractional units that are required. For example, if a city has an inclusionary program requiring 10% of the units to be affordable in a development of 45 units, 4.5 affordable units would be required. In this scenario, the four units would be built, while the developer might be required to pay an in-lieu fee for the remaining 0.5 unit (other jurisdictions simply round up to the closet integer).

The amount of the fee varies from jurisdiction to jurisdiction. In some cases, the in-lieu fee represents a nominal sum, such as $3,000 or $5,000 per affordable unit that is not built – not enough to develop a new unit, but perhaps used in part as a subsidy. In other cases, a fee is imposed on each market-rate unit in the development in order to collect sufficient sums to subsidize the development of affordable units. In other jurisdictions, the in-lieu fee is the actual cost to construct a unit – in a few cases, as much as several hundreds of thousands of dollars– and is imposed for each affordable unit that is required but not constructed.

Many jurisdictions provide developers some incentive in return for providing the affordable units. Some of these incentives include reductions in height and setback requirements, fee waivers, land dedication exemptions (for example, for parks), "fast track" or priority permits processing, density bonuses; and/or subsidies or provision of infrastructure by the jurisdiction.

Some of these incentives may be used to offset impacts such as those produced by the proposition that the cost of providing affordable units is often shifted to the developer and hence the non-subsidized units in the development (an argument that has as many detractors as it does supporters). A study entitled "Inclusionary Zoning: A Viable Solution to the Housing Crisis?" by The Center of Housing Policy (Washington, DC) discusses the impacts on market rate housing of an inclusionary program and highlights incentive efforts to redress many of these impacts.[1] Since time equals money in the development world, providing priority processing, for example, will alleviate at least some of the cost burdens of inclusionary requirements. A combination of several incentives will further mitigate these impacts.

More information on in-lieu fees and incentives can be found in the **Issues and Opportunities** section, below.

OTHER JURISDICTIONS

In 2003, 107 jurisdictions throughout the State had enacted inclusionary programs; by the end of 2004, that number had grown to 130. Throughout the Bay Area, various jurisdictions have turned to inclusionary zoning as a means of providing affordable housing opportunities. All jurisdictions with these programs see inclusionary zoning as a viable means of achieving its affordable housing goals, even though the State has opined that inclusionary zoning programs are not a substitute for designating sufficient sites to meet the "fair share" housing allocations.[2]

As this information illustrates, many jurisdictions throughout the nine-county Bay Area have operated their inclusionary programs for ten years or more. The median year in which these programs were established is 1992. In general, most jurisdictions in the Bay Area with inclusionary programs have some kind of in-lieu fee, require 10% of new developments to have affordable units, and apply inclusionary requirements to developments with five or more new units. Nearly all have both rental and owner housing provisions (often the specific requirements are different between the two) and provide some kind of an incentive such as density bonuses and design modifications to offset costs associated with participation in the program

ISSUES AND OPPORTUNITIES

Who Benefits? Who Pays? -- There are as many positive aspects of inclusionary programs as there are negative aspects. For example, the NHC study highlighted several important contributions of inclusionary zoning to communities, not the least of which is the creation of income-integrated communities without sprawl.[3]

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[1] New Century Housing: "Inclusionary Zoning: A Viable Solution to the Housing Crisis?" (Washington, DC: The Center for Housing Policy, Volume 1, Issue 2, October 2000). *See binder tab 1.*

[2] See Lucetta Dunn's letter to Paul Campos of the Home Builders Association of Northern California, November 30, 2004. *See binder tab 2.*

[3] "Inclusionary Zoning: A Viable Solution to the Affordable Housing Crisis?"

Despite these and other benefits, inclusionary zoning programs are sometimes perceived as adding to the cost of housing by requiring the market-rate units to subsidize the affordable units. This is an area of much dispute, both in the Bay Area and nationally. For example, much of the opposition to inclusionary zoning – often vocalized by the builders' community – has posited that the implicit tax of inclusionary zoning is generally passed on to consumers and landowners, specifically those who will pay market rates. Other than the Harvard study, until recently there has been relatively little objective information published about the general cost implications of inclusionary zoning. Rather, most financial analyses have been conducted locally, as part of a jurisdiction's nexus study.

Within the last three years, several studies have been published that specifically address the issue of who pays for inclusionary zoning. Some of these studies assert that the costs associated with inclusionary programs are passed on to the market priced homes, while other studies assert that in fact the cost is not borne by the end users at all. For example, the "Reason Foundation" study entitled "Housing Supply and Affordability: Do Affordable Housing Mandates Work?" (April 2004) argues that housing consumers and some landowners pay for inclusionary requirements, not developers. The authors assert that market-rate buyers (and to some extent, renters) will be forced to pay higher amounts than they otherwise would for their units because of inclusionary zoning's implicit tax on other units.

In an article published in the Hastings School of Law Review in 2002 which provided one of the first comprehensive reviews of inclusionary zoning and its cost implications for jurisdictions in California, Barbara Kautz, former Director of Community Development for the City of San Mateo and now a lawyer with Goldfarb and Lipman, noted that:

> Most cities that have conducted economic analyses have concluded that, in the long run, most of the costs are borne by landowners [rather than market rate renters or buyers.] Initially, before land prices have had time to adjust, either the market-rate buyers or the developer pays, depending on whether the market allows the developer to increase his prices. If the developer cannot raise the market price for the non-inclusionary units or lower his total costs, or some combination, his profits will decline.... To put this another way, builders will pay less for land because inclusionary zoning lowers their profits.[1]

Kautz asserts that developers will sell at the highest level they are able to sell at, meaning they will set prices according to what the market will bear. If, for example, the inclusionary "tax" added to a market-rate unit is $30,000 (one number asserted by the Reason study), a market rate buyer who can afford only, say, $450,000 for a new home will not pay $480,000. This $30,000 either then comes out of the developer's pocket in profit, or the price of land is adjusted downward to reflect a revised valuation of the land.

The view that consumers are not the ones who pay for inclusionary zoning but rather developers or landowners has been borne out by several Bay Area jurisdictions in practice. In one such instance (the City of Mountain View), the consensus of a focus group of local developers was that the cost of the City's inclusionary program is generally passed on to the property owner

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[1]Barbara Ehrlich Kautz, "In Defense of Inclusionary Zoning: Successfully Creating Affordable Housing," *University of San Francisco Law Review* – Vol. 36, No 4 (Summer 2002). *See binder tab 3.*

selling his land—rather than to the price or rental rate of the housing units. In other words, the price that the property owner is offered for his land is already lower because of the developer's additional costs for the inclusionary program (see that City's Housing Element for its discussion of this issue in the chapter on Governmental Constraints).

If the cost of inclusionary zoning is not borne by the buyers or renters, but rather the developers (in terms of less profit) or the original landowners (also in terms of less profit), the question then becomes whether or not inclusionary zoning unfairly reduces the profit one can realize through the development of property. As the courts have repeatedly shown, zoning laws do not constitute a "taking" unless an owner is deprived of most, if not all, of the economic benefit of a property. Land is a limited community resource, and as such courts have given jurisdictions broad discretion in implementing a variety of land use mechanisms that tend to restrict both the value and the particular use of property in order to achieve objectives that meet the greatest public good.

In most instances – certainly within the State of California – local jurisdictions with inclusionary programs have analyzed them as potential constraints to development. This has been the directive of State HCD: while it pronounces "housing element law neutral relative to enactment of mandatory local inclusionary provisions,"[1] the State also notes that there may be tradeoffs that must be discussed in the Housing Element's constraints section. However, jurisdictions almost always have implemented a number of incentives and cost benefits to mitigate these impacts, so that whatever constraint has been identified there is an offset offered to mitigate it.

Impact of the Napa Decision – The City of Napa enacted an inclusionary housing ordinance in 1999 to address its escalating affordable housing problem. Like many jurisdictions, Napa's ordinance required that 10% of the units in new developments be affordable, as defined. It also provided two alternative means of compliance. First, developers of single-family homes could, at their option, satisfy the inclusionary requirements through an alternative equivalent proposal, such as land dedication or the construction of affordable units on another site. Developers of multifamily units also could satisfy the ten percent requirement through a similar mechanism, but only if the city council determined that the proposed alternative would result in affordable housing opportunities equal to or greater than those created by the basic inclusionary requirement.

As a second alternative, a residential developer could choose to satisfy the inclusionary requirement through payment of an in-lieu fee. Developers of single-family units could choose this option by right, whereas developers of multifamily units were permitted this option only upon city council approval. All in-lieu fees generated were required to be deposited in a housing trust fund. This fund then could be used by the City only for the purposes of increasing and improving affordable housing in Napa.

The ordinance also contained an administrative relief clause, permitting city officials to reduce, modify, or waive the requirements contained in the ordinance "based upon the absence of any

[1]See Lucetta Dunn's to the HBA, as noted above.

reasonable relationship or nexus between the impact of the development and . . . the inclusionary requirement."

In September of 1999, the Home Builders Association of Northern California (HBA) sued the City of Napa, stating that the ordinance was invalid because it: (1) was an impermissible taking under both state and federal law; and (2) violated the Due Process Clause of the United States Constitution. The court rendered a decision in the City's favor, and HBA appealed; the appeal was denied. The Court of Appeal decided that the challenge could not be successful because the Napa ordinance contained a waiver provision allowing the developer to seek a reduction in the requirements if there was no ":reasonable relationship" between the impact of the development and the inclusionary requirements.

Does an In-Lieu Fee Represent a Disincentive to Developing Required Units? – As noted above, in-lieu fees offer the developer an alternative to actually building the required units. However, the amount of the fee levied in various jurisdictions throughout the State varies greatly, from a few thousand dollars to hundreds of thousands of dollars. If too high, the fee would be a disincentive to the developer to use the fee (see the case of Santa Cruz County, for example). On the other hand, if it is too low, it may be of little use in assisting the City to subsidize an affordable unit elsewhere with the fee collected.

For those jurisdictions with in-lieu fees, for example, amounts can range from as low as $1,008 per unit (the City of Pleasanton) to as high as $272,899 per unit (in 2004, the County of Santa Cruz) for the affordable unit not built. In the former case, the fee would likely be too low to facilitate the creation of an affordable unit, even as a partial subsidy, while in the latter case the fee might be so high as to force the developer to construct the unit rather than pay the fee, or possibly to not build the project at all. In fact, this is the rationale behind not allowing in-lieu fees at all (except perhaps for fractional units): if the primary goal is to build the affordable housing, rather than to garner funds, a jurisdiction might decide to set the in-lieu fee quite high.

Regardless of the amount of in-lieu fee required, the jurisdiction needs to develop a rationale for setting the in-lieu fee. Even though a nexus study would not necessarily be required (as in the case of commercial development linkage fees), the jurisdiction should have a solid analysis to explain how the fee has been set, especially if the fee is quite large. In San José, for example, the in-lieu fees for required redevelopment inclusionary units is generally the amount per unit the City needs to subsidize in order to make a unit affordable to a particular income level. If it costs the City about $75,000 per unit to take a market rate apartment into a unit affordable to lower-income families (based on substantial evidence in the record), it will set the in-lieu fee at that amount. In essence, the developer is required to pay to subsidize an affordable unit that he or she otherwise would have been required to actually construct.

Even though, as in this case, the $75,000 per unit is a not insignificant amount of money, it is still far less than the $200,000 or more it would cost to actually construct the unit. In fact, some jurisdictions prefer the developer to pay an in-lieu fee equivalent to a per-unit subsidy, since many cities have the capacity to build affordable housing themselves (or who work with seasoned nonprofit developers that do). As an attachment to this report, Kate Funk of Keyser

Marston provides a detailed analysis and recommendations for the setting of an in-lieu fee appropriate to the conditions found in Lafayette.

Should the Inclusionary Units be Required to be Constructed On-Site? -- Some jurisdictions have concerns about the appropriateness of siting required inclusionary units within the same development as market-rate units. About 80% of jurisdictions in the California Coalition for Rural Housing and Non-Profit Housing of Northern California report "Inclusionary Housing in California: 30 Years of Innovation" survey cited in-lieu fees as an alternative to development on-site. The following table shows three additional alternatives to on-site development:

Land Dedications	The Developer can substitute a gift of land that may accommodate an equivalent number of units in place of affordable unit construction.	Allowed by 43% of surveyed jurisdictions
Credit Transfers	Developer can credit affordable units built beyond the inclusionary requirement in one project to satisfy the requirement in another.	Allowed by 20% of surveyed jurisdictions
Off-Site Construction	Developer can build the affordable units at a different site than the market-rate units, sometimes conditioned on agreeing to increase the number of affordable units to be built.	Allowed by 67% of surveyed jurisdictions

Source: California Coalition for Rural Housing and Non-Profit Housing of Northern California.

Although there are obvious advantages to allowing a variety of alternatives to on-site development of the required affordable units, it does increase the cost of the inclusionary program because of the additional effort required to find alternative sites and execute land dedications. In addition, one of the central benefits of inclusionary programs is the creation of income-integrated communities without sprawl. Requiring development of affordable units defeats this goal and brings a level of uncertainty into the process.

What Kinds of Incentives Do Jurisdictions Use to Offset Costs? -- The Harvard University study noted that the implicit tax of inclusionary zoning may be a constraint to development, but also remarked that the costs of inclusionary zoning were largely off-set by the provision of cost-saving incentives, such as density bonuses. In fact, there were some developers who contended that, due to the density bonus, the inclusionary units were their most profitable units. The Harvard study noted that with appropriate incentives, units did not cost the developer extra and, in fact, lead to additional profit.[1]

As shown elsewhere in this report, research has shown that many, if not most, jurisdictions with inclusionary zoning provide some kind of incentives to help offset the cost of providing the units without subsidies. According to the "Inclusionary Housing in California" report, the most often reported incentives offered was the density bonus – which makes sense, because jurisdictions are required to offer density bonuses to developers who propose affordable housing.

[1]Even Robert Ellickson of Yale Law School, whose arguments are often quoted by opponents of inclusionary zoning, conceded that incentives could reduce or even eliminate the so-called "tax" on developers.

Aside from density bonuses, jurisdictions reported the following incentives, in declining order of use: fee deferrals, reductions and/or waivers; fast-track processing; standards reductions; growth control exemptions; and tax abatements.

According to the "Inclusionary Housing in California" survey, 71% of the 15 most productive programs and 38% of other programs provided subsidies to the developer as an incentive. Providing subsidies may be useful to help bolster an inclusionary zoning programs success, by substantially off-setting costs, but in some ways it defeats the purpose of having a stand-alone mandatory program. Moneys that a jurisdiction already uses to subsidize other affordable developments, when redirected to an inclusionary program, would no longer be available for those other developments. The purpose of an inclusionary zoning program is to require the development of affordable units within market-rate developments; it is not intended to divert funds away from other affordable housing development programs. Several options appropriate to the City – such as fee waivers, priority processing and density bonus improvements –could be tied into an inclusionary zoning program.

Tenure, Affordability, Size and Percentage: --It is instructive to highlight briefly how other jurisdictions have addressed the question of providing owner versus renter inclusionary programs, what size developments would be required to provide inclusionary units, and so forth. The key findings of "Inclusionary Housing in California" survey are as follows:

Size of project triggering requirement: Although the "Inclusionary Housing in California" survey did not specifically discuss the threshold at which inclusionary requirements are triggered, the survey did include offer useful information for Bay Area jurisdictions. Some jurisdictions set as the minimum threshold at zero units, meaning that the inclusionary requirements apply to all developments, regardless of size. At the other end of the spectrum, one Bay Area jurisdiction requires inclusionary units on projects of 30 units or more. The most frequently cited thresholds are as follows:

Minimum Number of Units Triggering Inclusionary Requirement	Number of Bay Area Jurisdictions with This Threshold
5 units	13
10 units	12
0 units	11

Percentage requirement: The mean percentage of affordable housing required in both rent and for-sale developments is 13%; half of all programs require at least 15%, of which nearly one-quarter require 20% or more. The most frequent inclusionary percentage requirement is 10% Statewide.

Income targeting: Most programs require that inclusionary housing be targeted to one or more predetermined income groups, rather than at the discretion of the developer.[1] Rental units are targeted most frequently to low-income households earning between 51 and 80 percent of median income, while for-sale units are most frequently targeted to moderate-income households

[1] "Inclusionary Housing in California: 30 Years of Innovation," p. iii.

(81-120% of median). Although breakdowns for individual jurisdictions were not available in the study, some general information was provided; see the table on page 3.

Length of Affordability – According to the survey, nearly every jurisdiction with an inclusionary program has some kind of mechanism to ensure affordability over time. Restrictions range from 10 years on up through perpetuity; many cities track Redevelopment Law language regarding affordability restrictions of 55 years or more. According to the study, the mean term for rental housing is 42 years, while for owned housing the mean is 34 years. The following table compares this information with that of Bay Area localities, where known.

Stakeholders Comments

During 2005, the Stakeholders Group met a number of times to discuss the concept of inclusionary zoning and provide input to staff and the consultants as they were crafting the components of such a program. In February of this year, more information was provided to the group, including updated market analyses and recommended in-lieu fees from Keyser Marston. At that meeting, a question was raised as to whether jurisdictions have experienced any negative impacts in their inclusionary programs as a result of the subprime mortgage crisis and the credit crisis in general. City staff and Keyser Marston surveyed a number of jurisdictions in the Bay Area and State where this concern may be strongest.

Attached is a summary of those responses. As expected, these jurisdictions generally have not experienced overwhelming concern in their for-sale inclusionary units, since the process for selecting buyers is much more controlled than the regular market has required. Most underwriting criteria require buyers to be qualified for a conventional loan, and many jurisdictions provide extensive training to their affordable buyers to avoid the kinds of problems that have been experienced in the general market.

The City has received written comments from the Greenbelt Alliance, since their representative was unable to attend the final Stakeholders meeting. The following lists these three comments, with City responses in italics.

1) Inclusionary Percentage Requirement: Greenbelt Alliance would like a 15% city-wide requirement instead of the proposed 10%. *Comment noted. At this time, City staff will recommend a 10% requirement in non-Redevelopment Areas of the City. Once the program has been implemented and its success gauged more fully, the City can consider increasing the percentage requirement to 15%. A number of jurisdictions with inclusionary programs have taken a similar conservative approach at first, and raised the limit later.*

2) Affordability restrictions: Greenbelt Alliance is concerned about allowing moderate income level units in rental housing. We would like only Very Low Income and Low Income units in rental housing. In most of the Bay Area, that would still be ABOVE market rent. *The City has not recommended moderate income rental housing for the inclusionary program, but rather has recommended only lower-income units to be included in rental developments.*

3) Affordability restrictions: Almost all cities require a mix of affordability levels (e.g. 9% LI, 6% VLI for rental), Greenbelt Alliance would like to see a mix of affordability levels. All moderate is OK for ownership, but we would still like Very Low Income in the rental mix. Comment noted. *The percentages listed in Greenbelt's comment of 9% and 6% pertain to Redevelopment Area requirements, which continue to be required in these areas. As staff and the consultants explained at the February Stakeholders meeting, there are a variety of reasons why targeting just one income group – specifically, low-income rather than a mix with very low-income – will be proposed. For example, affordable developments with government subsidies tend to be more competitive with very-low income units, since both federal and State funding sources are targeted to those of greatest need. Further, since the expectation is that developers of inclusionary units will not receive City subsidy for the required units, a program with only a low-income requirement would be less onerous than very low-income since the affordability gap is significantly less for low-income. Lastly, from a management standpoint, having a single income category will assist in implementation of the program.*

Council Subcommittee Comments and Questions

In a 2007 meeting with the Council subcommittee involved in this issue, a number of additional issues were raised that were considered as the final components list was drafted:

1. How is does the City make sure that the developer complies with the inclusionary program, and not making them all studios? How does the City make sure they are compatible in size?

- A standard provision of most inclusionary programs is that the affordable units have the same unit mix (number of bedrooms) as the market rate units. If the market rate units are 40% one bedroom, and 60% two bedroom, then the affordable units should also be 40%/60% mix.

- The program may permit the affordable units to be smaller in square foot area than the market rate units. If the market rate one bedroom units are 950 square feet, the affordable units may be smaller. The City may (or may not) have minimum size limits for each number of bedrooms, either in the ordinance itself or in an administrative procedures manual.

- Early in the project planning and application phase, the developer is expected to meet with the City about the inclusionary component. City staff is usually delegated to work with the developer and determine an acceptable affordable unit compliance component, consistent with the ordinance (but always there will be room for interpretation and choices in the compliance options, particularly if there are split targets.) As part of the initial approval phase for the project overall, there will be an agreement document between the City and the developer summarizing how the inclusionary program requirements will be met.

2. How does the City provide incentives for rentals? Today there is an abundance of condos. How does the City protect rentals?

- Development of apartment projects has been largely infeasible in the Bay Area for the past ten years, particularly in Lafayette, but conditions are beginning to change now. The attraction of developing condominiums has been far greater to the extent that there has been little a city can do, other than direct financial assistance to induce development of rentals. As rental levels strengthen and gap between the profit potential of the two options narrows, the city could place a moratorium on the inclusionary requirement for rental project to make the two alternatives more equal. There are a number of ways a moratorium could be structured to sunset when the economic cycle has shifted in favor of apartment development.

- Some cities have special provisions to address the removal or demolition of affordable rental units. Walnut Creek, for example, has an enhanced inclusionary requirement to recapture a portion of units lost, depending on the circumstances.

- Inclusionary requirements for new condominium projects may also be applied to condominium conversions: same standards as new units or different standards.

3. Is there a way to require 15% affordable housing for condo conversions if an applicant converted at least 3 apartments?

- See response about applying inclusionary requirements to condo conversions.

- Since 15% of 3 units is less than half a unit, a 3 unit threshold would be hard to defend. There should be a consistency with the rounding policies in the inclusionary program, or again, you could have special provisions for conversions.

- If Lafayette wishes to consider customized provisions for condominium conversions, Keyser Marston would be able to assemble information on how other cities have handled conversions and affordable unit requirements and assist with recommendations for Lafayette.

4. Could you provide samples of what other cities do at the end of the 45 year term of affordability?

- The standard for affordability term, no matter how many years, is for the clock to start over again with each change of title. As a result, the odds are very low that any unit will be occupied by a single owner for 45 years. But if that is the case, then the unit may be sold at market rate.

- In practice, the oldest inclusionary programs in California are now 30+ years old, so there is minimal experience, if any, with long term affordability restricted units returning to market rate.

5. How can the City get more very low-income units, which are so difficult to provide? Should the City look at ways to collect more fees to develop these units? Should the City consider a development fee that is used for affordable housing?

- Precisely because very low income households are the hardest to assist, most funding sources for affordable housing (State and federal) give preference or target the lowest income ranges. The City does in fact look for ways to increase funding for lower-income housing, especially very low, including through the use of in-lieu fees in inclusionary projects. The City could indeed look towards a commercial development linkage fee that assesses a dollar amount on new commercial development for the purpose of financing affordable housing as well. Many jurisdictions have this type of linkage program; a specific "nexus" study would be required to assess the relationship between the number of lower-income jobs that are created by new commercial development and the number of affordable housing units that would therefore be needed.

6. How does the City comply with the Regional Housing Needs Allocation figures established by ABAG?

- The City complies principally by ensuring enough land is zoned at appropriate densities to provide for the housing that is allocated. It is not specifically a requirement to build housing, though the City does have to provide "quantified objectives" that estimate how many units will actually be built. The City can generally count units proposed or produced through its inclusionary program against its ABAG figures, with some caveats.

Summary

After reviewing the status of existing and proposed inclusionary programs throughout the Bay Area, and in consideration of the wide range of comments received from various constituents, it is recommended that the City adopt an inclusionary zoning program with requirements that are generally consistent with the many inclusionary zoning programs throughout the Bay Area and the State. In some components of the proposed program, the requirements will track California Redevelopment Law, while elsewhere the components track other programs. This information is shown in a summary provided by Keyser Marston. Although one option would be the wholesale adoption, Citywide, of the already-existing inclusionary requirements from the Redevelopment Area requirements, a number of refinements have been made that would to enhance the overall applicability of an inclusionary program. In any event, a City inclusionary program could begin somewhat conservatively; after a few years of performance, the City can revisit these requirements to determine if changes are warranted.

Recommendation

Approve the key components of the inclusionary program for Lafayette. Direct staff to prepare an ordinance.

Inclusionary Housing Program Key Components
See shaded rows for discussion

1. General Program Policies

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
1	**Geographic Area Where Program is Applicable**	Investigate/consider the following options: o City wide application, same size threshold limits as RDA o City wide application, in-lieu fees allowed outside the RDA o Require inclusionary units for rental projects, allow in lieu fees for for-sale projects o	LWV[1]: City wide application LHC: RDA project area only. Willing to look at deed-restricted second units outside the RDA if they will help the City meet its regional housing needs allocation (RHNA) LPG: City wide application, allow in-lieu fees outside RDA HBA: RDA project area only	City wide. Retain options of requiring units on site and/or providing in-lieu fees.	OK
2	**Development Size Threshold**	All mixed use and multi-family developments of 7 units or more. In-lieu fees for 3-6 units.	LWV: OK, but specify that it applies to all residential development, including single-family LHC: OK LPG: OK HBA: No threshold	OK	RDA areas ≥ 7 units (on/offsite) 3-6 units (in-lieu) Other areas ≥ 10 units (on/offsite, fee) 3-6 units (in-lieu)
3	**Mandatory or Voluntary**	Mandatory	OK	OK	OK

[1] LWV: League of Women Voters, LHC: Lafayette Homeowners Council, LPG: Lamorinda Peace Group, C: Chamber of Commerce, HBA: Homebuilders Association, GA: Greenbelt Alliance, BR: Board of Realtors. So far, only the League of Women Voters, the Lafayette Homeowners Council, the Homebuilders Association and the Lamorinda Peace Group have taken positions.

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
4	**Inclusionary Percentage Requirement**[2]	15% of units (Housing Element recommends 10% of units)	Within RDA project area LWV: 15% LHC: 15% LPG: 15% HBA: 10% Outside RDA project area LWV: 15% LHC: RDA project area only LPG: 15% HBA: RDA project area only Within the RDA project area, the majority of stakeholders recommended 15% (consistent with RDA regs.). Stakeholders did not recommend percentage outside the RDA.	Need more information, particularly the economic impact of imposing the 10% and 15% requirement on for-sale single family housing.	The current proposal includes a 15% requirement within the RDA areas, consistent with Redevelopment Law, and a 10% requirement everywhere else in the City.
5	**Affordability Restrictions**	For rental: Priority first to production of very low income units, then low income and moderate. Consider moderate income only for for-sale.	Rental projects LWV: OK LHC: OK LPG: OK HBA: OK For-sale projects LWV: single family for sale – moderate only. Multifamily for sale – 1st unit moderate, second unit lower income, no very low income. Different requirement due to different density which reduces burden.LHC: OK for multi family, but priority first to moderate income for for-sale	Use the League of Women Voters' suggestion, which is on a project by project basis: • Rental – first unit very low income, 2nd unit low income, 3rd unit moderate. Continued cycling in this manner. • Single family for sale – moderate only • Multifamily for sale – first unit moderate, 2nd	The concept of rotation through each project by first providing a very low income unit, then a low income unit, and then a moderate-income unit will be difficult to administer and may provide inconsistent results depending on how one applies the requirement. KMA has recommended that the City reconsider the split target model and instead assign one affordability level to each type, for example condos at either Low Income or Moderate Income, and

[2] Shaded items indicate that more information is needed by the City Council.

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
			single family LPG: moderate income only HBA: OK for multi family, but priority first to moderate income for for-sale single family	unit low income. Continued cycling in this manner. No very low income units.	rental units only at Low Income. Moderate Income units are not recommended except for single family requirements since at the rental level, moderate income units are essentially the same as market rate. In addition, KMA recommends that the Very Low Income requirement be deleted. See KMA's analysis in the memo dated July 31, 2007.
6	**Sequence of Inclusionary Units**	See above.	See above	OK	See above
7	**Tenure of Inclusionary Units**	Can be either rental or homeowner units	OK. Per Govt. Code 65589.8	OK	OK
8	**Terms of Affordability**	The clock should start ticking every time a property changes hands for homeownership units	LWV: Given the difficulty in producing affordable units, we support a new affordability period whenever an ownership unit is sold. Owner units should remain affordable in perpetuity. LHC: Within RDA project area, redevelopment time limits apply. For ownership, would like to see the property owner get some equity from the sale. LPG: We would prefer in perpetuity, however, we are swayed by the comments of Melanie Freitas re: the Monterey County experience and therefore support the 45-year limit. If there were any way to create incentives for adequate maintenance, we	Need more information. At the end of the affordability period, is the owner allowed to sell the property at market rate for a substantial profit?	The timing is consistent with RDA rules: <u>Rental Units</u>: 55 year period. Rental units include second units that are voluntarily income-restricted by the property owner. <u>Ownership Units:</u> 45 years. Current recommendation from KMA is to be consistent with California Redevelopment Law -- unit is resold at the same affordability level and definition. Owner then realizes value appreciation only to the extent that median income rises. Various jurisdictions have equity

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
			would be delighted to change our position. HBA: Within RDA project area, redevelopment time limits apply. Chamber: 45 years for ownership units		share provisions for the property at the end of the 45 years; this will require further fleshing out once primary provisions are approved.
9	**In-Lieu Fees and Timing of Payment**	Allow in-lieu fees; fees paid at time building permit is issued. Clarify that in-lieu fees are for a 3-6 unit project and for any fraction of a whole unit.	OK	OK	An updated study was completed by KMA. In lieu fee equivalents for single family units are estimated at: Condos: $15 to $20 per square foot Single Family Detached: $30 to $40 per square foot Apartments: $10 to $15 per square foot. Additionally, KMA recommends that for single family detached projects and for larger multifamily projects (however defined), the City should consider an ordinance requiring customized in-lieu analyses at the City's discretion. For complete details, please see Keyser Marston memo dated July 31, 2007
10	**Alternative Compliance Measures**	None	LWV: Accept compliance measures such as off-site in some circumstances (partnering with	OK	OK

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
			non-profit), land dedication, some design flexibility(such as duets) LHC: Apply in lieu fees throughout LPG: Allow alternative compliance measures HBA: Allow alternative compliance measures		
11	**Exemptions Allowed**	Allow exemptions to Ordinance	OK (by a Council vote)	OK	Exemptions, concessions and waivers should be consistent with the Napa decision to ensure the ordinace can withstand legal challenge.
12	**Development Concessions**	None	Review with density bonus rules (SB1818)		See above.
13	**Priorities**	Investigate priority to those who work in Lafayette without discriminating against people who don't work (retirees)	LWV: No priorities LHC: Offer priorities to those who have ties to Lafayette, i.e, people who work here, have relatives here, etc. if law permits LPG: 1) reserve half the units for persons who have worked in Lafayette for a minimum of five years, and alternate offering units to persons on that priority list and the no-priority list; if there is no qualified person on the priority list when a unit comes up, then immediately go to the no-priority list for the next applicant; 2) priorities for Lafayette workers (5-year minimum) for for-sale units only HBA: Allow priorities, but if no people are on the priority waiting list, offer the units to others.	Split vote. Two for no priorities, two want this matter investigated further.	The City Attorney has provided information that explains federal and State regulations regarding the provision of local priorities for housing. In essence, the City cannot implement priorities based on residency because such regulations have been struck down as contrary to fair housing laws.

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
14	**Accessibility Requirements**	Do not include in program	OK	OK	OK
15	**Reduced Size or Amenities in Inclusionary Units**	Square footage of inclusionary unit may be less than market unit but the average number of bedrooms has to be the same. Inclusionary units should be similar in exterior appearance to market rate units. For homeowner units, interior finishes can be different. For rental units, provide option to developer: ***Fixed Units***: Inclusionary units are designated and remain as such and interior amenities/size can be reduced. ***Floating Units:*** All interior size and amenities are similar—inclusionary unit can be any unit in development as long as required # of units is maintained.	LWV: OK LHC: OK LPG: OK HBA: OK	OK	OK
16	**Clustering/ Dispersal of Inclusionary Units**	Inclusionary units shall be dispersed throughout the development unless the clustering of units will further affordable housing opportunities.	LWV: OK LHC: Review with density bonus rules (SB1818) LPG: OK HBA:OK	OK	OK
~~17~~	~~**Alternate Developer Proposals**~~	~~OK~~	~~OK~~ *(merged with 10)*		

No	Component	City Council Comments 11.08.04	Stakeholders Positions	Council Direction 05.23.05 (in italics)	Staff Update (for unresolved issues)
18	**Goals/Purpose of the Inclusionary Housing Ordinance**	Adoption of a program would meet the goal of the Housing Element policy and Program H.5.1.1)	LWV: OK LHC: OK LPG: OK HBA: OK	OK	OK
18	**Asset Limitation for Homeownership**	No asset limitation	OK	OK	OK
19	**First Time Homebuyer Requirement**	Program Restricted to First Time Homebuyers	LWV: OK LHC: In addition to first time homebuyers, consider Lafayette residents who have experienced a setback such as bankruptcy or divorce LPG: OK HBA: OK but if no people are on the first time buyers waiting list, offer the units to others.	OK	The industry standard at the present time is to define first-time homebuyers as those who have not owned property within the last three years. The City may wish to expand the eligibility to include this group of owners.
20	**Resale Controls**	Research silent seconds, equity sharing…what do other communities do?	LWV: Seller to receive an amount tied to the increase in median income and compensation for limited improvements LHC: NA LPG: Seller to receive an amount tied to the increase in income as well as a small share of equity HBA: No comment	Need more data	Use redevelopment formulae. Seller to receive an amount tied to the increase in median income and compensation for capital improvements. Add a provision to ensure that the seller does not take a loss on the sale.
21	**Principal Residency**	Inclusionary homeowner must occupy property as their principal residency.	OK	OK	OK

PROGRAM ADMINISTRATION

No.	Component	City Council Comments on 11.08.04	Stakeholders Positions	Staff Position
1	**Administrative Entity**	Program could be administered by Contra Costa County Housing Authority. Check into cost of administering the program. Evaluate the use of compliance or monitoring fee to help pay for administrative costs.	OK	OK
2	**Use of Affordable**	Provide HOME, CDBG or ADDI (American Dream Downpayment Initiative) funds	OK	OK

	Housing Funding Resources	when developer provides deeper affordability levels or more affordable units		
3	**Entitlement Process**	Inclusionary units must be identified and included as a condition of approval.	OK	OK
4	**Timing of Development**	Final occupancy permit for market rate unit withheld until final occupancy permit issued for Inclusionary unit.	OK	OK
5	**Marketing of Units**	Still to be Determined	OK	OK

Question posed to the California League of Cities Housing, Community & Economic Development list serve.

The City of Lafayette is in the process of developing an inclusionary housing ordinance. We have been asked by a constituent whether Bay Area jurisdictions have experienced problems relating to the subprime mortgage crisis and concomitant housing downturn in the jurisdictions' inclusionary zoning programs. Specifically, have there been impacts on lower-income owners in BMR units? If so, what kind of problems are jurisdictions encountering?

City	Response
Livermore	In Livermore we find just the opposite, households who participate in the Inclusionary Program are required to attend first time homebuyer workshops so they are educated on the pitfalls of subprime mortgages. The City also takes it further by defining the terms and conditions of the first mortgage; the first mortgage has to have a fixed interest rate over the life of the loan, no negative amortization and no balloon payments.
Fairfield	The City of Fairfield has experienced issues with some of its moderate-income BMR homes. These homes were required to be sold by developers to moderate-income households as part of the planning approval process. In essence, they are inclusionary units although we do not have a formal inclusionary housing requirement. The issue we have run into is because the City didn't have a deed of trust but rather just had restrictions against the homes, lenders and/or title companies did not recognize the homes were restricted. Therefore, when subprime loans were the loan of choice and homeowners were taking equity out of homes through refinances, they allowed borrowers to pull out "equity" based on market rate appraisals even though the properties are not market rate. Some of these homeowners have later run into problems caused by the loan products they used (adjustable subprime loans) and owe more than the affordable value of the home. Unfortunately, most of our restrictions were not well written to protect us when this happened; however, even in a case where it was very clear that we had to approve refinanes, we are still looking at having to file an injunction to a foreclosure in order to protect our interest in the overencumbered property. We have since started using a Performance Deed of Trust in addition to the restriction, but time will tell if lenders notice it any better than they have w/ the restriction. To date, we have lost one home to foreclosure, managed to find buyers for three others (including one which was a short sale), are working on filing an injunction on another foreclosure sale, and just found out about another BMR home that somehow is not encumbered for over $550K even though the affordable price is $334K! And those are just the ones I know about... Also, another issue we are running into as a fall-out of the subprime mortgage crisis is that as real estate prices drop, there is much less of a (or no) gap between the restricted affordable price for a moderate-income home and the market rate price home. This is making reselling the BMRs very difficult given they have 45 year affordability restrictions recorded against them.

San Mateo	The City of San Mateo has not yet seen any issues with inclusionary unit buyers and we don't expect to since we control the buyer selection process and provide guidance to our buyers regarding reliable mortgage products and programs. Also, our program requires that the first mortgage be fully amortized with a fixed rate of interest for a minimum five (5) year period, and does not permit negative amortization or balloon payment type loans. Where we do expect to see some impact on our program is that the new industry underwriting standards may eliminate some of our prospective buyers who had little or no downpayment or borderline credit scores.
Pasadena	The City of Pasadena has not experienced any foreclosures with affordable Inclusionary Housing Units. I believe homeowners in affordable units secured financing based upon their capacity to carry a conventional mortgage. Inclusionary Housing in Pasadena has been very successful the past five and half years: 496 affordable units; over $17 million of In-Lieu Fees assessed.
Cloverdale	The City of Cloverdale sets sale prices based on capitalized value of income, with an 8% assumed interest rate. In that way, house prices do not get above the level that a low or moderate income household can afford. We have some units built by a nonprofit, which uses equity sharing. Several of those households got into trouble because values went up with the general market and went out of affordability. In addition, some households tapped home equity and had the same problems as the market in general. My suggestion is to use capitalized income as a basis for affordable housing costs. We have not yet reached a point where well-designed inclusionary units are set at a price higher than market housing, but there are some less desirable houses that are less than the inclusionary price. We will probably adjust for that factor in the next Housing Element by lowering the prices (moderate at 110% of AMI rather than 120%. Low seems to be okay at 80%, so we may leave that alone.)
Soledad	Soledad has a BMR subdivision with 82 housing units. Half of the units are low and very low and half are moderate income. All of the property owners went through training on improving credit and homeownership. Regardless, we have had one foreclosure, a default on another was cured by the City and a third went into foreclosure this week. The units that have low and very low households are self-help units and are heavily layered. We have about 5 owners that the banks have provided a line of credit because they didn't conduct a thorough search of title. We have a regulatory agreement on some units and a sales restriction agreement on others. This is because some had a silent second funded through CDBG funds and others had redevelopment funds. A new provision requires that a "Notice of Affordability Restrictions on Transfer of Property" must be recorded separately from the deed of trust on all new or substantially rehabilitated residential units. This will help a lot toward maintaining affordability for future units.

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

MEMORANDUM

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE

LOS ANGELES
CALVIN E. HOLLIS, II
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMEY

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

To: Niroop Srivatsa
City of Lafayette

From: Kate Earle Funk

Date: July 31, 2007

Subject: Inclusionary Program - Summary and Recommendations

Introduction

Following is a summary of the key provisions of an inclusionary housing program for Lafayette. The attached chart and narrative summarize the key provisions including those determined by the community process during 2004 and 2005. Staff and Keyser Marston Associates (KMA) are making joint recommendations for the remaining provisions that were still undecided at the end of the earlier process.

An accompanying memorandum which is an Appendix presents an Economic Analysis of proposed inclusionary provisions and an analysis of in lieu equivalents. This memorandum briefly restates the findings where relevant but refers the reader to the Appendix for more in depth explanation.

This document is intended to facilitate discussion and to assist the City with moving the process to final decisions, leading to the adoption of an ordinance that guides the program for future years.

Overview

The vast majority of the provisions of a local inclusionary housing program may be tailored to local policy preference. However, consistency with other affordable housing requirements at the state and regional level are important to keep in mind in the design of a program, especially for a small city like Lafayette. The attached chart and narrative note the principal source or basis for the selected or recommended provisions. The shorthand abbreviations for source or explanation are explained below:

- Decided in previous process in Lafayette, or "Previous Process" in the chart.

- California Redevelopment Law (CRL) consistency. Since the majority of construction subject to an inclusionary program is in central Lafayette and subject to CRL, where possible and desirable, the City program should use similar requirements.

- ABAG and State affordable provisions consistency. The definitions of "affordable" in the ABAG Regional Housing Needs Allocation (RHNA) differ from CRL for some income definitions. The ABAG definitions are at higher income levels than CRL and are therefore less burdensome on project economics than the CRL definitions.

- Staff and KMA are jointly making recommendations for some provisions, keyed to CRL or ABAG, or in some cases, based on what we believe would be appropriate and acceptable in Lafayette.

The recommendations and chart are for all three principal housing types developed in Lafayette – condominium and other attached for sale units, single family detached, and rental apartments.

The material in this memorandum is organized:

A. Key Provisions Summary

B. In-Lieu Compliance Equivalents

C. Notes, Other Strategies and Recommendations

A. KEY PROVISIONS SUMMARY

The following narrative amplifies the information on the chart (Exhibit 1)

Percentage Requirement – Refers to the percent of units required to be affordable. Our understanding is that in the Previous Process, 10% was decided for projects outside the Redevelopment Area, and 15% within the Redevelopment Area per CRL.

Minimum Project Size – In the Previous Process, the decision was made to require on-site development of inclusionary units in all projects of 10 or more units in multi family projects. In the Redevelopment Area the threshold project size is 7 or more units. For single family detached see special recommendation.

It was also decided in the Previous Process to charge an in lieu fee in projects in the 3 unit to 9 unit size range. KMA notes that many communities do charge down to single units.

Affordability Level Requirements – this phrase refers to the affordability level to which that the Percentage Requirement is to be applied. From the Previous Process, we understand the following to have been decided:

Condo – 50% Low/50% Moderate Income

Single Family Detached (SFD) – 100% Moderate Income

Rental Apartments – 33% Very Low/33% Low/33% Moderate.

Where multiple affordability levels, or "spit targets" are indicated, the Previous Process determined that the first affordable unit is to be assigned the highest applicable income level, the second affordable unit the second highest affordability level, etc.

See Section C regarding Strategy for Very Low Income Units and "Split Targets" (requiring a mix of income levels.)

Income Level Pricing Definitions – this phrase refers to the affordability level at which the units must be sold or rented; sales prices or rent levels are determined by formula starting with the affordability relationship to Area Median Income (AMI). This program provision is of interest to developers because it determines the contribution to project income from the affordable units and impact on project feasibility overall.

Very Low Income – 50% Area Median Income (AMI). This definition is fairly universal; it is the same for CRL and ABAG purposes and most local programs.

Low Income – 70% AMI. CRL has no official classification for Low Income; ABAG defines Low Income as 50% to 80% AMI and some local programs do use the 80% level. For Lafayette, staff felt that 70% AMI was the direction set in the Previous Process although no firm decision was made.

Moderate Income – 110% AMI . This definition is consistent with CRL. ABAG defines moderate income as the 80% to 120% range and some local programs do use the top end of the range at 120%. For consistency with CRL, Staff/Consultants recommend the 110% definition for Lafayette.

Qualifying Income Level – This phrase refers to the income range for households to qualify for living in the units. This is an important policy consideration for the City, but does not directly affect developers and project economics.

Very Low Income – up to 50% AMI

Low Income – 50% to 80% AMI

Moderate Income – 80% to 120% AMI

Rounding and Fractional Unit Policies – Rounding policy refers when fractional units get rounded up to a whole unit for the purposes of on-site compliance. Per the Previous Process, that level was identified at 0.5 or more.

Fractional Unit policy refers to whether the city charges the in lieu fee for fractions under the round-up level, or in this case under 0.5 units. Staff/KMA recommendation is to include a fractional fee provision in the program.

Single Family Detached Projects – After much discussion with staff and review of the sentiments expressed in the earlier process, Staff and Consultant jointly recommend that Single Family Detached Projects (SFD) of 10 units or more not be automatically subject to the on-site requirement. Instead, the recommendation is for the ordinance to reserve the right of City Council to request on-site provision of affordable units if the Council so chooses. In addition, if the Council does grant the project the opportunity to make an in-lieu payment instead of on-site units, a customized analysis may be conducted to determine the amount of the in lieu payment. (see note on Customized Analyses)

The recommendation is made in light of the very few SFD projects of 10 or more units likely to be proposed in future years in Lafayette and that fact that virtually all entitlements for projects of this size will be necessitate negotiations with the City on multiple topics.

Exhibit 1
Summary of Key Program Elements
Inclusionary Housing Analysis
City of Lafayette, CA

		Source/Basis
1. Percentage Requirement	10% of Units (15% in Redevelopment Area)	Previous Process
2. Minimum Project Size		
In-Lieu Fee	3 to 9 units (3 to 6 in Redev. Area)	Previous Process
Build Requirement	10 units (7 units in Redevelopment Area)	
3. Affordability Levels	Condo - 50% Low/ 50% Mod. SFD - 100 % Mod. Apt. - 33% VL/ 33% Low/ 33% Mod.	Previous Process
	First unit assigned highest applicable affordability level, second unit assigned second highest affordability level, etc.	Previous Process
4. Income Pricing Definitions	Very Low 50% AMI	CRL
	Low 70% AMI	Staff/KMA
	Mod 110% AMI	CRL
5. Qualifying Income Level	Very Low Income – up to 50% AMI	CRL
	Low Income – 50% to 80% AMI	CRL
	Moderate Income – 80% to 120% AMI	CRL
6. Rounding & Fractional Unit Policies	Round up 0.5 units or more	Previous Process
	Fractions under 0.5 pay in-lieu fee	Staff/KMA
7. Single Family Detached	10 or more units:subject to in-lieu fee, but Council may require on-site affordable units or customized in-lieu analysis	Staff/KMA

B. IN LIEU COMPLIANCE EQUIVALENTS

In Lieu Fees provide an alternative to on-site compliance. In Lafayette, the intention determined thus far is to use in lieu fees for projects under the 10 unit size threshold (or seven units in the Redevelopment Area.) In addition, the ordinance will likely be written to reserve the right for City Council to allow in lieu compliance in all projects. Staff and KMA are also recommending that the City consider using the in lieu fee for fractional units.

The in lieu equivalent in concept is a similar burden or cost to the project to on-site compliance. In communities where land and development is particularly expensive, as is the case with Lafayette, in lieu equivalents are substantial numbers, but they are reflective of the costs of on-site requirements. A separate Appendix entitled Economic Analysis, Inclusionary Housing Program in Lafayette provides the analysis. This attachment summarizes a real estate analysis that starts with the market rate values of new units in Lafayette and their development cost components. Proposed inclusionary program provisions are analyzed to determine the costs to projects for various residential types – condominium (and other for-sale attached units), single family detached homes, and rental apartments.

The Economic Analysis lays out the various steps to the determination of the in lieu equivalents for each residential type. Only the conclusions are provided here in this Key Provisions Summary. Please refer to the Economic Analysis Appendix for more information and explanation.

How the Fee is Charged

There is often much confusion when in lieu fees are bandied about because there are different ways to express or apply in lieu fees. Furthermore, some communities use percentage relationships to assess their inclusionary housing lieu requirements.

The attached chart, Exhibit 2, presents a summary of six alternative ways of expressing an inclusionary in lieu fee. The chart briefly explains the approach, indicates sample jurisdictions that use the approach, and notes some advantages and disadvantages.

The first two approaches on the chart use percentage relationships which are indirectly related to the actual on-site cost. Several Peninsula cities use a percent of unit sales price, an arrangement that has inherent administrative difficulties. Others use a percent of building permit valuation, but to capture anything close to on-site equivalency, the percent has to be very high. Neither of these approaches is recommended.

Alternative three requires a customized analysis for each project. This approach has definite advantages for jurisdictions with very few projects and may be of interest to Lafayette. See Section C later in this memorandum.

The last three alternatives are basically the same real estate equivalency approach expressed three different ways – cost/fee per affordable unit owed, cost/fee per market rate unit, cost/fee per square foot area of the market rate unit.

The KMA recommendation is to use the per square foot area fee because it is simple, easily understood, and enables the fee amount to vary by unit size or square foot area of the unit. Fees based on square foot area result in lower fee burdens on small modest units than on large luxury units, a relationship that is supported by the economic analysis. This approach is particularly attractive to cities where the range of unit sizes tends to be broad.

In Lieu Equivalents

Exhibit 3 summarizes the in lieu equivalents for condominiums, single family detached, and rental apartment projects. Exhibit 3 shows the fee expressed in three ways, per affordable unit owed, per market rate unit based on the 10% requirement, and per square foot area which is recommended. For the 15% requirement in the Redevelopment Area the fees per market rate unit and per square foot should be multiplied by 1.5.

The table is presented for the multiple targets or "split targets" that were determined in the Previous Process which result in blended fee amounts. The component parts are also indicated should the City wish to simplify the program and reduce the number of affordability levels required on-site. See Section C notes on Split Targets and Very Low Income Unit Strategies.

Recommendations

Per request of the City, KMA is offering a suggested range of fee levels for each of the residential types. The recommended range is lower than the levels supported by the analysis, but may still be viewed as substantial. The recommended ranges for the 10% inclusionary program are as follows:

Condominium - $15 to $20 per square foot

Single Family Detached - $30 to $40 per square foot.

Apartments - $10 to $15 per square foot

For the 15% program in the Redevelopment Area, the above values could be multiplied by 1.5

The practice of other cities in setting in lieu fees is even more diverse than the programs themselves. It is helpful to keep in mind the intended use of the fees – small projects only, and fractional units in on-site application. See Exhibit 5 on inclusionary programs in other jurisdictions.

EXHIBIT 2
IN-LIEU PAYMENT ALTERNATIVES
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE

Approach and Brief Description	Sample Jurisdictions	Advantages	Disadvantages	Comments
I. Percent of Sales Price of Market Rate Unit	Palo Alto, Menlo Park, Mountain View	Higher value units yield higher fees. Larger size units yield higher fees. Easily understood	May not capture full gap for highest end units. Administration – must place lien on escrow	
II. Percent of Building Valuation	Half Moon Bay, San Carlos, Napa	Larger size units yield higher fees. Easily understood Easy to administer; collect at bldg. permit	Permit valuation doesn't capture higher value locations.	Bldg permit valuation less than 20%-30% sales price.
III. Actual Gap for Each Project	Santa Cruz County, Danville, Sunnyvale	Higher value units yield higher fees. Larger size units yield higher fees. Captures full gap	More difficult to explain and predict. More administration; ok if small volume of projects	Varies with each project
IV. Gap Established for Each Affordable Unit Owed (Usually based on average unit)	Monterey County, San Jose Redev., Davis, San Francisco	Easy to administer; collect at Bldg. Permit Easy to apply to fractional unit	No ability to capture higher fee for larger or more valuable units Needs annual/periodic adjustment	Lafayette: $325,950 blended gap for condos.*
V. Gap/Fee Established for Each Market Rate Unit Built (Variation on IV above; gap allocated to market rate units.)	Novato, Irvine, Carlsbad	Easily understood Easy to administer; collect at bldg. permit Easy to apply to fractional units	No ability to capture higher fee for larger or more valuable units. Needs annual/periodic adjustment	Lafayette: $32,595 – see above
VI. Gap/Fee Established per Square Foot on Market Rate Units	Pasadena, Walnut Creek, West Hollywood, San Diego, Santa Rosa	Easily understood Easy to administer; collect at bldg. permit Captures more for large units	Needs annual/periodic adjustment	Lafayette: $23 per sq. ft. – see above

* See Condo Table 8.

Exhibit 3
In-Lieu Equivalents
Inclusionary Housing Analysis
City of Lafayette, CA

	Base Program	Per Aff. Unit Owed	Per Market Rate Unit	PSF
Condo [1]	10% of units			
	50% @ Low	$415,200	$41,250	$30
	50% @ Moderate	$236,700	$23,670	$17
	Blended	$325,950	$32,595	$23
	Recommended Range			$15-$20
SFD [2]	10% of units			
	All at Moderate			
	Mid size 4 BR unit	$1,052,600	$105,260	$42
	Small size 3 BR	$591,800	$59,180	$36
	Recommended Range			$30-$40
APARTMENTS [3]	10% of units			
	33% @ Very Low	$357,200	$35,720	$38
	33% @ Low	$325,800	$32,580	$34
	33% @ Moderate	$165,200	$16,520	$17
	Blended	$282,733	$28,273	$30
	Recommended Range			$10-$15 See note

1) See Condo Table 7
2) See SFD Tables 5 & 6
3) See Apartment Table 7; see text on apartment development feasibility at this time and recommended moritorium on inclusionary obligations.

NOTE: the above figures are all based on a 10% program; for the Redevelopment Area where the requirement is 15% per market rate unit and per quare foot, figures should be multiplied by 1.5.

C. OTHER STRATEGIES AND RECOMMENDATIONS

For the most part, these items are presented for further consideration. Some represent a modification to what has been decided to date in the Previous Process, but are put forth for final deliberation before the program is "finalized" and codified.

1. Strategy for Very Low Income Units

Many communities pursue a strategy of developing their very low income units in projects that can take advantage of federal and state programs, and thus leverage local resources. Such a strategy is particularly attractive when there is a resistance to mixing units for Very Low Income households on-site, especially if the market rate units are in the more luxury price ranges. Some higher income communities also do not require on-site very low income units in rental projects, although it is often an option or alternative to low income. (Walnut Creek is an example).

To pursue such a strategy implies a revenue source for assisting in the development of apartment projects for Very Low Income households. Local sources can be in lieu fee revenues from development that is not required on site (small projects, fractional units, those exempted such as single family detached, if that is the case.) In communities with Redevelopment, 20% set aside funds are a major resource.

This strategy also implies a commitment of the community to find sites, fight neighborhood resistance and facilitate development of a project. Typically, non- profit developers are invited to develop the project. Communities with an acute shortage of sites are now trying to recast their inclusionary programs to offer an attractive land dedication component that delivers sites for development of units for Very Low Income households.

Summary: Lafayette should consider adopting a strategy for Very Low Income units that primarily relies on using fee revenues (and 20% set aside funds) to develop projects that leverage local funds with federal and state program. Requiring on-site units for Very Low Income in rental projects should be deleted. (Note: this is not consistent with the decisions made in the Previous Process.)

2. Split Target Consideration

In the Previous Process in Lafayette, the concept of "split affordability targets" was embraced. Split targets have the obvious appeal of achieving units at a range of affordability levels within a project. Split target are not difficult to implement in large

projects, but in small projects they can become challenging and involve a lot of decision making on the part of staff in applying the program.

A fundamental of inclusionary program design is that the unit mix (or size of units in terms of number of bedrooms) of the affordable units should reflect the unit mix of the market rate units. If a condo project is 15% studios, 35% one bedroom and 50% two bedroom, the affordable units should be in equal distribution. When applying split targets, there is the additional challenge of assigning which size units get to be affordable to which income level. Nearly all projects compute to fractional units for a base compliance of unit mix even when there is only one affordability level. While guidelines can help staff and developers understand the priorities, it should be recognized that split targets do make for more difficult administration.

To illustrate the complexity of split target application, following is a sample market rate projects. For the 10% program, try to apply the current program targets, while keeping the unit size mix of the affordable units similar to the market rate units. Also try for a 15% requirement for condo's and then for a rental project.

7	Studio Units
21	Bedroom Units
29	Two Bedroom Units
2	Three Bedroom Units
59	Total Units

Summary: Lafayette should reconsider split targets and simplify the requirements for one affordability level only. This means condo's at either Low Income or Moderate Income, and rental units at Low Income (Very Low eliminated due to strategy outlined above, Moderate is not recommended because in many economic cycles moderate rent levels may not be very different from market rate.)

3. Customized Analysis for On-Site Compliance or In-Lieu Payment

Some communities in which the number of major projects processed over a multi-year period is very small, require customized analyses for large projects. Customized analyses have the advantage of giving both the community and the developer the opportunity to negotiate for the size and number of units to be built within the adopted framework of the program. A customized analysis will in no way result in a lesser obligation for the developer; the advantage is that alternative affordability levels and alternative size units can presented as choices for compliance to meet the needs of both

the City and developer. For example, if the City wants large units of three or four bedrooms, the large units might be an equivalent trade-off to more units of a smaller size.

A standardized methodology can be proscribed which commences with a computation of the total inclusionary burden based on the proposed market rate units and the requirements of the adopted Lafayette program. Then various equivalent compliance options can be calculated, allowing the City and developer the ability to negotiate the configuration of the on-site compliance or in-lieu payment equivalent.

A number of cities in Southern California use this approach. Usually an outside firm is retained to perform the analysis. The firm is hired by and contracted to the City, with the developer reimbursing the City, much the way EIR's are contracted. The analysis is not expensive to perform (under $12,000) and becomes part of the project entitlement process cost. Needless to say, the process relieves staff of the work entailed to determine on-site compliance requirement, a relief that is particularly helpful if there is a mix of unit sizes and Lafayette maintains the split affordability target requirements agreed to as part of the Previous Process.

Summary; Lafayette should consider an ordinance provision that gives the City the option of requiring a customized analysis in large projects (large could be defined as in excess of, say 25 units, or left undefined) and for single family detached projects.

4. Rental Apartment Projects

Development of new rental apartment projects is not feasible in the current economic cycle. Rents have not significantly increased since the peak in 2000/01 while condominium prices have continued to escalate, making condominium development a far more profitable use of multifamily designated land. To add an inclusionary requirement on rentals only makes a bad situation worse and delays any potential for future development even further. As a result, if the City does want to facilitate the development of rental apartments, a moratorium should be placed on inclusionary requirements for rental units. There are a number of ways to signal the return of feasibility of rental projects and design a "trigger" to application of the inclusionary program to rental projects.

Summary: Lafayette should consider a moratorium on inclusionary requirements for rental projects until the market has demonstrated a return to feasibility.

5. Resale Formula and Other Deed Restriction Items

The formula for setting the price of affordable units at resale is a key provision of an inclusionary program. If the city is interested in maintaining long term affordability of the unit, then the resale price must be restricted to another affordable buyer. The Previous Process concluded that long term affordability was in the best interest of the city and therefore resale to another income qualified buyer would be appropriate. The usual practice, consistent with CRL, is that the unit may be resold at the same affordability level and definition (for example, Moderate Income at 110% AMI). The result is that the unit owner realizes value appreciation only to the extent that median income rises.

KMA cannot emphasize strongly enough the importance of well executed, comprehensive Deed Restrictions, Resale Restriction Agreements and other related documents. Some California jurisdictions have had inclusionary programs in place for over 30 years now and it behooves jurisdictions adopting new programs (or updating old ones) to learn from past experience by incorporating state-of-the-art legal documents into their programs.

A check list of deed restriction and related agreements topics is provided (Exhibit 4) to illustrate the topics to be covered and needs. An attorney experienced in drafting these agreements should be responsible for any final check list of what is included and draft documents.

Summary: Lafayette should devote resources to a thorough and state-of-the-art update of all deed restrictions and other related agreements as part of adopting an inclusionary program.

6. Inclusionary Programs in Other Jurisdictions

Exhibit 5 following provides a two page summary of inclusionary programs in other jurisdictions. The chart contains abbreviated versions of the key provisions of inclusionary programs – percent requirements, income targets, in lieu fees and other features.

The jurisdictions selected for the chart are either neighboring cities or other communities that are viewed to have some similarities to Lafayette.

The chart illustrates a range of requirements on almost all topics.

EXHIBIT 4
CHECKLIST DEED RESTRICTIONS AND RELATED AGREEMENTS

An attorney must draft the agreements (or modify and update existing RDA agreements.)

The key elements of the Resale Restriction Agreement and Option to Purchase typically include the items listed below. Council direction usually provided for the key variables, as asterisked.

A. Recitals and definitions sections – summarizes purpose of Agreement and defines terms.
B. Definitions of Eligible Buyer, Area Median Income, Resale Price
C. Owner-occupancy requirement/prohibition of rental
    1. Definition- occupancy10 months per year, primary residence, homeowner's exemption on property taxes, etc.
    2. Partial rentals allowed?
    3. Provisions for temporary waiver,
    4. Required proof/City monitoring process
    5. Event of default
    6. Penalties for violators-recapture of all actual or presumed rents, etc. (legal costs?)
D. Permitted transfers
    1. To domestic partners?
    2. To adopted children?
    3. To surviving spouse upon death?
    4. Trusts?
E. Prohibited transfers
    1. Definition
    2. Event of default
    3. Penalties
F. Process for transfers
    1. Notice requirement?
    2. Eligibility? Income-eligible, owner-occupants
    3. New resale restrictions recorded?
    4. Term starts over?
G. Maintenance and Insurance Requirements
H. Resale Price*
    1. Appreciation factor or combination of factors*
    2. Added items? Capital improvements, special assessments, brokers fees, sellers closing costs?*
    3. Deduction for deferred maintenance*
    4. Minimum resale price- original purchase price
    5. Maximum resale price- price affordable to applicable income range with a cap equal to a % of the unit's appraised fair market value
I. Process for resale- this will vary depending on who is responsible identifying buyer
    1. Notice from owner of intent to sell
    2. Marketing period for owner or City, if applicable

3. Deadlines for City's response to notice-allowable sales price, current income limits, inspection, inspection report, verification of buyer's eligibility
4. Deadlines for owner- termite report, provision of income documentation of buyer if applicable, documentation of capital improvements, etc.
5. Owner requirement to provide clear title
6. City option to purchase*
7. Deadline for close of escrow
8. Process for making necessary repairs – Seller vs. City

J. City Option/Right to Purchase
K. Process if City does not exercise Right to Purchase
L. Process and Terms if Property is Sold to a Non-income eligible buyer and Price is Not Restricted
M. Inspection Process
    1. City's right to inspect- with 24 hours notice after notice of intent to sell?
    2. By whom? City and its agents?
    3. City's deadline
        a. Deadlines to inspect and to report on deficiencies
        b. Deadlines extended if owner uncooperative or access not available
    4. Repair requirements for owner
        a. Before or after COE?
        b. After COE only at City's discretion?
        c. City's right to inspect after work is completed
N. Who pays for what?
    1. Seller's closing costs and broker's fees, if applicable
    2. City administration fee
    3. Prohibition on other fees and charges to buyers
O. Lender Provisions
    1. City's right to approve financing for purchase or refinancing including new equity loans or subordinate loans- type of loan, loan-to-value, etc.
    2. Subordination requirements for refinancing
    3. Notice of Default or Sale
    4. Lien position of resale restriction
    5. Foreclosures
    6. City's Right to Cure Default
    7. Penalties
P. Term of resale restrictions agreement*
Q. Subordination of affordability covenants and City's note
R. Limits on Refinancings
S. Terms for Repayment of City Note

EXHIBIT 5
OTHER CITIES INCLUSIONARY PROGRAMS
INCLUSIONARY PROGRAM UPDATE
CITY OF LAFAYETTE, CA

	Walnut Creek	San Rafael	San Mateo	Menlo Park	Danville
Year Established/Updated	2004	1992; updated 2004	1992	1988; updated 2005	1994
Minimum Project Size					
For In-lieu Fee	2 units	2 units	No fee option	5 units	13 du/ac
For Build Requirement	10 units	5 units	11 units	5 units	8 units
For Sale					
Percent of Units	10% at 120% AMI or 6% at 80% AMI or 4.5% at 50% AMI	<10 units: 10% 11-20 units: 15% >20 units: 20%	10%	<10 units: 1 unit 10-19 units: 10% >20 units: 15%	<8 du/ac: 10% 8+ du/ac: <21 units - 10%, 21+ units - 15%
Income for Price Calc. (% AMI)	120%; 80%; 50%	1/2 at 90%; 1/2 at 65%	120%	110%	110%
Rental					
Percent of Units	10% at 80% AMI or 6% at 50% AMI	<10 units: 10% 11-20 units: 15% >20 units: 20%	10%	<10 units: 1 unit 10-19 units: 10% >20 units: 15%	<8 du/ac: 10% 8+ du/ac: <21 units - 10%, 21+ units - 15%
Income for Price Calc. (% AMI)	80%; 50%	1/2 at 60%; 1/2 at 50%	80%	HUD low-income limits	110%
In-Lieu Fee	<10 units, Council sets based on aff. gap, varies by # of units: R: $1.60 to $7.20/SF FS: $2.00 to $9.00/SF	Council sets based on construction costs: $193,320 per aff. unit	None	% sales price: 1-3 units: 1% 4-6 units: 2% >6 units: 3%	Project-by-project based on affordability gap
Terms of Affordability	FS: 45 years R: 55 years	55 years	FS: 30 years R: Perpetuity	55 years	n/a
Fractional Units	≥0.7, round up <0.7, round up or pay fee	≥0.5, round up <0.5, round up or pay fee	Round up at 0.5	Round up or pay fee	Round up at 0.75
Alternatives to Onsite Provision [1]					
Fee Option	<10 units (Developer) >10 units (Council)	<5 units (Developer) >5 units (Council)	No	Yes ("City")	<13 du/ac (Council)
Land Dedication	Yes ("City")	Yes (Council)	No	No	No
Offsite	Yes ("City")	Yes (Council)	Yes ("City")	Yes ("City")	Yes (Council)
Design of Inclusionary Units					
Smaller Units	Yes	No	Yes	No	Yes
Lesser Interior Finishes	Yes	No	Yes	Yes	Yes

1. Parentheses indicate which entity has discretion.

Abbreviations:
AMI = Area Median Income
R = Rental
FS = For Sale
SF = Square Foot
du/ac = units per acre

Note: Information is drawn from surveys prepared from 2003 to 2006; some data may not be 100% up-to-date.
Program terms have been abbreviated and are subject to interpretation; consult City ordinances or staff for complete details.

EXHIBIT 5
OTHER CITIES INCLUSIONARY PROGRAMS
INCLUSIONARY PROGRAM UPDATE
CITY OF LAFAYETTE, CA

	Cupertino	Corte Madera	Los Gatos	Pleasant Hill
Year Established/Updated	1993; updated 2004	n/a	1979; updated 2005	2004
Minimum Project Size				
For In-lieu Fee	1 unit	1 unit	5 units	5 units
For Build Requirement	7 units	10 units	10 units	10 units
For Sale				
Percent of Units	15%	10% at 120% and 10% at 80% and 5% at 50%	<20 units: 10% 20 to 100 units: 10 to 20% (increases w/ sliding scale) >100 units: 20%	10% at 70% or 5% at 50% or 25% qualifying seniors or 20% secondary units
Income for Price Calc. (% AMI)	1/2 at 100%; 1/2 at 120%	120%; 80%; 50%	1/2 at 50-80%; 1/2 at 80-100%	70%; 50%
Rental				
Percent of Units	15%	10% at 120% and 10% at 80% and 5% at 50%	<20 units: 10% 20 to 100 units: 10 to 20% (increases w/ sliding scale) >100 units: 20%	10% at 60% or 5% at 50% or 25% qualifying seniors
Income for Price Calc. (% AMI)	60% at 50%; 40% at 80%	120%; 80%; 50%	80% of Santa Clara County Fair Market Rents	60%; 50%
In-Lieu Fee	$1.15/SF; update pending	Project-by-project based on affordability gap	6% of project building permit valuation	Council sets yearly based on affordablility gap
Terms of Affordability	99 years	55 years	n/a	FS: 45 years R: 55 years
Fractional Units	Round up at 0.5	Round up at 0.5	Round up at 0.5	May pay fee, subject to "Approving Body"
Alternatives to Onsite Provision [1]				
Fee Option	<7 units	<10 units	<10 units	Yes ("Approving Body")
Land Dedication	n/a	No	No	no
Offsite	n/a	No	No	Yes ("Approving Body")
Design of Inclusionary Units				
Smaller Units	No	n/a	No	Yes
Lesser Interior Finishes	Yes	n/a	Yes	Yes

1. Parentheses indicate which entity has discretion.

Abbreviations:
AMI = Area Median Income
R = Rental
FS = For Sale
SF = Square Foot
du/ac = units per acre

Note: Information is drawn from surveys prepared from 2003 to 2006; some data may not be 100% up-to-date.
Program terms have been abbreviated and are subject to interpretation; consult City ordinances or staff for complete details.

KEYSER MARSTON ASSOCIATES
ADVISORS IN PUBLIC/PRIVATE REAL ESTATE DEVELOPMENT

APPENDIX A

ADVISORS IN:
REAL ESTATE
REDEVELOPMENT
AFFORDABLE HOUSING
ECONOMIC DEVELOPMENT

SAN FRANCISCO
A. JERRY KEYSER
TIMOTHY C. KELLY
KATE EARLE FUNK
DEBBIE M. KERN
ROBERT J. WETMORE

LOS ANGELES
CALVIN E. HOLLIS, II
KATHLEEN H. HEAD
JAMES A. RABE
PAUL C. ANDERSON
GREGORY D. SOO-HOO
KEVIN E. ENGSTROM
JULIE L. ROMEY

SAN DIEGO
GERALD M. TRIMBLE
PAUL C. MARRA

MEMORANDUM

To: Niroop Srivatsa
City of Lafayette

From: Kate Earle Funk

Date: July 31, 2007

Subject: Economic Analysis: Inclusionary Housing Program in Lafayette

Per your request, Keyser Marston Associates (KMA) has updated our 2005 analysis of inclusionary requirements and residential development prototypes in Lafayette. The earlier analysis and this update have been prepared to inform City discussions of alternative inclusionary housing requirements and their in-lieu fee compliance equivalents.

The economic analysis is essentially a real estate analysis that addresses the cost to residential projects of proposed inclusionary requirements. The analysis for each residential type – condominiums, single family detached, and rental apartments – commences with a market survey to determine current values, sales prices and rent levels. The costs of various inclusionary requirements are a function of median income, affordable definitions, and formula driven sales prices and unit values.

This analysis serves as an Appendix to the Summary and Recommendations.

Overview Conclusions

In general, affordable sales prices have remained about the same since 2005, reflecting only very slight increases in median income over that time. Market rate sales prices, on the other hand, have continued to increase over the two-year period. Construction costs, as well as land values, have also increased over the time period. As a result of increasing costs and sales prices and flat affordable sales prices, the affordability gaps have grown larger. However, most of the market activity for attached units in Lafayette has been for projects with a 15% inclusionary component required by the City, therefore

allowing us to assume that multi-family project economics have taken the inclusionary burden into account, at least with respect to land values.

There continues to be an absence of market rate rental project development in recent years, giving us no solid recent experience on which to base the project pro forma and in lieu burden estimates. Since we understand that you wish to adopt a program that covers rental projects, we have provided best estimates to serve as a basis for designing the program.

Organization

This material is divided into three sections following this introductory material. The sections are by residential "product:"

- Condominiums and other attached multi family for sale type units
- Single Family Detached
- Rental apartment projects

Table sets are organized accordingly with a few appendix tables covering all topics, such as 2007 income levels, which is Appendix Table 1. Also, some market experience data has been put into the Appendix for reference.

Other Background/Context

The City of Lafayette has been engaged in the process of designing an inclusionary housing program for several years now. In addition, the City has a Redevelopment Area under the state program covering much of central Lafayette. The Redevelopment Area has state mandated inclusionary requirements that the City/Agency has been implementing by requiring new residential projects to do on-site units. A number of key decisions regarding a citywide inclusionary program have been made by this time, but a few program elements are still not determined. As a result, we have provided alternative analyses in situations where we understand decisions are yet to be made.

A. CONDOMINIUM UNITS

This section covers condominiums, townhomes and other attached for sale units as may be developed in Lafayette.

Affordable Income Levels

KMA updated the calculation of affordable sales prices and rent levels to reflect the current 2007 income levels, published by the California Department of Housing & Community Development based on estimates from HUD. Area Median Income (AMI) for a three-person household in Contra Costa increased only slightly over the two year period, from $74,000 to $75,400. The 2007 income levels for the range of household sizes are shown in Appendix Table 1.

Affordable Sales Prices

The affordable sales price calculations were run for one, two, and three bedroom condominium units at Very Low, Low and Moderate income levels. Sales prices are calculated for Very Low Income at 50% AMI per practice almost everywhere. Affordable sales price for Low Income households is provided on Condo Table 1 at both 70% and 80%, since it is our understanding that the City is still considering both income levels for purposes of price-setting. Based on discussions, with City staff, we jointly decided to select the 70% level and proceed to complete the rest of the analysis assuming Low Income at 70% AMI.

Moderate Income level is assumed at 110% AMI consistent with California Redevelopment Law. Some cities use 120% AMI which meets the ABAG RHNA standards. For a city as small as Lafayette where most of the activity is in the Redevelopment Area, having too differing standards is best avoided.

The affordable sales prices for condominiums are shown in Condo Table 1. For the purposes of the analysis, we are now using a weighted average of household sizes since the two bedroom unit appears too small to represent average current market activity in Lafayette. (See next section)

Note that for the lower income tiers, 30% of gross household income is assumed allocated to housing whereas for the moderate income tier 35% of income is for housing. These percentages are consistent with CRL, but some cities choose to alter these percentages for local programs.

Prototypical Condominium Project

KMA updated the 2005 market analysis to examine whether the prototypical development has changed in terms of unit mix, unit size, parking, sales prices, etc. There has not been any significant new condominium projects completed in Lafayette

since the 2005 market analysis was conducted; however, two new projects are in the advanced planning stages. KMA interviewed the developers of the proposed projects for input on a range of topics. . Based on their input, we increased the average unit size from 1,275 square feet (SF) to 1,400 SF and changed the unit mix to include 3BR units. For an average mix we are using 14% one BR, 50% 2 BR, and 36% 3 BR units.

KMA also altered the parking assumption from above ground to a mix of above and below. Alternatively, the parking could be partially underground due to sloping site conditions and result in similar costs. Both proposed projects intend to include underground parking; one partially underground and one fully underground. A summary of the prototypical development is shown in Condo Table 2.

Market Sales Prices

Since there have been no new condominium projects developed in Lafayette since 2005, to update the estimate of market rate sales prices KMA also surveyed recent sales data for townhomes and condominiums in Walnut Creek. Older Lafayette sales are also included in the survey. In addition, resale data for condominiums in Lafayette was assembled. Finally, we discussed sales prices with the two developers of proposed projects in Lafayette. New sales data is shown in Condo Table 3 and resale data in Condo Table 4.

Overall, our analysis suggested that our 2005 estimate of $520 per square foot, or $663,000 for a 1,275 SF unit, is lower than current market activity suggests. . For update and program planning purposes, we recommend using a sales price of $550 per square foot, or $770,000 for a 1,400 square foot unit, recognizing that some projects are going to command even higher prices due to superior locations and amenities. There could also be opportunities for more modest projects in less desirable locations that could be priced a little lower than $550 per square foot.

Condo Table 5 presents a comparison and summary of the market rate sales prices and the weighted average affordable sales prices. It is noted that the market sales price for a new condominium in Lafayette requires an income that is approximately 200% of the County median income for the same size household.

Development Costs

Condo Table 2 presents a summary of estimated development costs for a prototypical condo unit in Lafayette. Discussions with developers, as well as KMA's recent experience in other communities, suggests that the 2005 land cost figure is far too low

for today's land costs for condominiums. KMA estimates that the current per-unit land cost is about $115,000 per unit at a density of 33 units to the acre. As noted at the outset, these land costs are per market rate unit, taking into account that a share of all units are required to be affordable and therefore can bear no land cost.

Hard costs of construction have increased rapidly since 2005; KMA consulted two major construction cost indices and adjusted the 2005 estimate to reflect 6% annual increases for two years. Parking costs increased due to increasing construction costs and because underground or partially underground parking is more expensive than at-grade parking. Total direct costs are estimated at $395,000 per unit.

Total fees and other indirect costs have also been increased to reflect changes over the past two years. City fees are estimated to have increased by approximately $5000 per unit and are now estimated at $28,000 per unit. Total indirect costs are estimated at $178,000 per unit. With an additional industry standard 12% profit (percent of development costs), the total development cost figure comes to $770,000, or $550 per square foot, consistent with the market sales price.

Affordability Gaps

Condo Table 6 presents the affordability gaps for the three income levels and blend of unit and household sizes. For this update, KMA altered our methodology slightly from the 2005 analysis. The two projects under consideration in Lafayette both include an affordable component – one because it is in a redevelopment area and one resulting from negotiations with the City. The land values paid by the developers in Lafayette, therefore, already reflect the impact of an affordable component. To calculate affordability gaps, KMA adjusted the total development costs by removing the land component and the profit component (neither of which are possible in the affordable units) to estimate the cost burden of the affordable unit on the rest of the project.

The affordability gaps are calculated as the difference between construction costs (including indirects) and the restricted price of the unit. The gaps range from $237,000 for a moderate income unit to $476,000 for a very low income unit. For the prototype unit, this translates to gaps of between $170 and $340 per square foot, assuming the average unit size of 1,400 square feet.

In Lieu Fee Equivalent

The calculations presented in Condo Table 7 provide in lieu equivalencies based on the preceding analyses and the assumptions in the table – a 10% inclusionary requirement

comprised of half the units affordable to Low Income (at 70% AMI) and half the units affordable to Moderate Income (at 110% AMI). All other assumptions such as unit size and various components of affordable unit pricing (such as percent of income for housing, HOA dues, etc.) affect the calculation as well.

In lieu equivalents are shown as amounts or fees per market rate unit and per square foot. The blended program suggests an in lieu equivalent to $32,595 per market rate unit or $23 per square foot of residential area. The gap per affordable unit owed is $325,950 which is one approach to computing amounts owed for fractional units.

If an in lieu fee provision were to be used as an alternative to on-site units, then the analysis should be adjusted to reflect the land value and profit potential of all units. In other words if large projects were given the option of on-site units or fee payment, fee amounts should be higher to account for the fact that a project with no on-site affordable units would achieve full land value and profit for all market rate units. If the use of fees is for fractional units and very small project purposes, the amounts indicated in the analysis provide a valid fee program.

B. SINGLE FAMILY DETACHED UNITS

As discussed in our 2005 analysis, single family detached (SFD) projects in expensive residential markets present special considerations for inclusionary programs. Unit sizes tend to be considerably larger resulting in significantly higher affordability gaps. The special consideration also stems from the necessity to alter on-site solutions for accommodating affordable units. Some programs allow duet or corner duplex units to reduce the burden on developers and produce compatible physical solutions for neighborhood continuity. Many communities allow SFD projects to meet affordable housing requirements through off-site solutions, such as land dedication or payment of fees. Some communities exempt SFD's completely from inclusionary obligations.

It is our understanding that Lafayette may not require on site affordable units in SFD projects but will wish to make them subject to the program in some manner. The following analysis provides the real estate basis for a fee on SFD projects.

Affordable Prices

In SFD Table 1 the affordable sales prices for SFD units are calculated based on current Area Median Income (AMI) levels as indicated in the Appendix Table. The procedure used to calculate the prices are the same as for condominiums except that there is no

homeowners association dues. The affordable prices for three to five bedroom units range from $414,700 to $480,200 for Moderate Income households at 110% AMI.

The affordable prices per unit are translated to prices per square foot in SFD Table 2 for a range of unit sizes, from 1,650 SF to 4,000 SF. The table mainly serves to illustrate the impact of the wide range in unit sizes and how affordable price varies per square foot varies depending on the assumption. New market rate units in Lafayette are very large. Most inclusionary programs allow affordable SFD units to be significantly smaller than the market rate units if they are to be on-site. For this analysis, we are only illustrating the gaps based on a wide range of unit sizes that are all possible for the number of bedroom indicated.

Market Prices

Since the 2005 analysis, SFD prices have continued to increase. SFD Table 3 presents data on new SFD units in Lafayette. Only one significant new SFD project in Lafayette has been marketed since 2005, Hidden Oaks. The units at Hidden Oaks are very large, averaging 4,200 SF, and have sold for an average price of almost $2.7 million, or $627 per square foot. Other new SFD units sold in Lafayette in the past two years also suggest that new SFD units sell for at least $1.5 million, and often much more.

Based on the recent market data, KMA increased the 2005 market rate sales price estimates from $500 - $520 per square foot to $590 - $610 per square foot, depending on the unit size. Even with the smallest unit sizes, these sales prices still generate unit prices of at least $1 million. (SFD Table 4)

Affordability Gaps

SFD Table 5 presents the affordability gaps for the range of SFD unit sizes at Moderate Income (110% AMI) level. The table illustrates how the size of the unit drives the size of the affordability gaps. The gaps range from $590,000 for a 1,650 SF unit to almost $1.9 million for a 4,000 SF unit. As indicated, affordability gaps are huge on a per square foot level.

Unlike the condominium analysis, these affordability gaps include the land value and the forgone profit components, because the Lafayette has not required an inclusionary or other type affordable housing requirement on single family detached projects.

In Lieu Fees

In SFD Table 6, the affordability gaps are translated to in lieu fees assuming a program requirement of 10% affordable. On a per square foot level, equivalent fee levels range from $34 to $47 per square foot. Of note is the consistency in fee per square foot going across bedroom sizes. What impacts the fee level substantially is the assumption as to unit size for each number of bedrooms.

C. APARTMENT UNITS

Apartment development in Lafayette, like most elsewhere in the Bay Area, continues to be infeasible in this economic cycle. Rents have been stagnant since 2000 and development costs have escalated, making the profit potential of apartment development far inferior to condominiums in the use of multi family land. As in 2005, there is no base of recent experience with which to build an apartment project pro forma financial analysis to serve as a basis for developing an inclusionary program. Since any inclusionary program adopted by the City is likely to be in place for many years and through other economic cycles, the City has requested that we develop information and recommendations for rentals as part of the inclusionary program for the long term.

Affordable Rents

Apartment Table 1 presents the affordable rents based on the 2007 income levels (Appendix Table 1) and the standard 30% of income for housing assumption. Affordable rent levels for one and two-bedroom units at Very Low, Low and Moderate Income levels are driven by formula from the median income information.

KMA attempted to update the utility allowance estimates, but the Contra Costa Housing Authority continues to use the April 2005 estimates, so these too remain unchanged in this analysis.

The weighted average rents reflect a unit mix of 30% one bedroom units and 70% two bedroom units, based on the prototype development.

Market Rents

Apartment Table 2 presents current market rate rents for apartment units in Lafayette. Only the Town Center project is relatively recent; the rest of the inventory is rather old. Rent levels have increased a little since the 2005 analysis, reflecting the slight rebound

region-wide in the rental market, but market rents continue to be far below the rents required to make new construction even marginally feasible.

Based on the pro forma of development costs as indicated in the next section, we estimate that rents to support new project would need to be nearly $2,700 per month. Current market rents require an income at approximately the County median; new market rents would require an income of about 150% of the median. (Apartment Table 3)

Development Costs

KMA's estimate of development costs for new apartment units in Lafayette is summarized in Apartment Table 4. Development costs have been increased in many areas, most particularly construction costs. For this update, we assume a per-unit land value of $52,000 per unit, also a substantial increase over the 2005 estimate but far less than the land value estimate for condominium. The implicit assumption is a site less suitable for condominium use. Density is also higher than condominiums when measured as units per acre (but not Floor Area Ratio due to the far larger size of the condominium units). City permits and fees have been adjusted.

To provide a more conservative estimate of development costs, KMA removed the profit component in the development cost estimate for apartments. Assuming that the developer owns the building for the long-term, the building will generate profit to the developer through the presumed annual escalation of rents. (Many developers would not build under such circumstances even if the calculated rents are achievable.)

Overall, the KMA analysis, for the purposes of the inclusionary program design, concludes that new apartment unit development cost would be at least $359,000 per unit, or $377 per square foot for the average 951 square foot unit. As noted previously, this analysis is not based on recent experience in Lafayette but is drawn from KMA experience with residential development of all types throughout the Bay Area adjusted for Lafayette.

Unit Values Supported

The unit values supported by the various affordable and market rent levels is the next step in the analysis procedure and is summarized in Apartment Table 5. Key variables in the link between value supported and rent levels are annual operating expenses and capitalization rate.

KMA updated the estimate of annual operating expenses to reflect both the increase in property taxes due to increasing construction costs and the increase in operating expenses due to typical appreciation of management and other costs. Overall, we estimate operating expenses at $9,000, which assumes a fairly high level of amenities, as would be typical of new apartment buildings in Lafayette. The capitalization rate assumption is 6.5%, to express the current market valuation of the income stream. Under these assumptions, a new apartment building would have to generate average rents of almost $2,700 per unit per month to support development costs.

Apartment Table 5 also provides the calculation of unit values supported by affordable rent levels. Very Low Income units rent levels barely cover the operating expenses, supporting values of just $1,800 per unit. Low income rent levels support unit values of $33,200. Moderate Income units, which rent for approximately slightly over current market rent levels, support unit values of $193,800.

Affordability Gaps

Apartment Table 6 presents the affordability gaps per unit, which are calculated by subtracting the affordable unit values from the development cost of the unit. The gaps range from $165,000 per unit for Moderate Income units to $357,200 for Very Low ilcome units, or $170 to $380 per square foot.

In Lieu Fee Equivalents

To illustrate in lieu fee equivalents, we have provided the resulting fee equivalent per market rate unit and per square foot. The proposed program is for 10% of the units affordable, one third at Very Low Income, one third at Low Income and One Third at Moderate Income. The blended requirement of the three income levels results in a fee per market rate unit of $28,273 or $30 per square foot.

Needless to say, the added burden of nearly $30,000 per unit on a project that is far out of feasibility range to start with only makes the project more infeasible. We suggest that no burden be placed on rental units until the market has demonstrated that projects are feasible. For the longer term, we will recommend a strategy that will accommodate rental projects in the affordable program.

CONDO TABLE 1
ESTIMATED MAXIMUM AFFORDABLE HOUSING PRICES
CONDOMINIUM UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	1-Bdrm	2-Bdrm	3-Bdrm	Weighted Average[1]
VERY LOW INCOME @ 50% AMI				
Income @ 50% County Median	$33,500	$37,700	$41,900	
Income Allotted to Housing @ 30% of Income	10,050	11,310	12,570	
(Less) Ongoing Expenses[2]	(4,790)	(5,230)	(5,670)	
Income Available for Mortgage	$5,260	$6,080	$6,900	
Maximum Purchase Price[3]	$81,200	$93,900	$106,600	$96,700
LOW INCOME @ 70% AMI				
Income @ 70% County Median	$46,900	$52,780	$58,660	
Income Allotted to Housing @ 30% of Income	14,070	15,834	17,598	
(Less) Ongoing Expenses[1]	(5,380)	(5,890)	(6,400)	
Income Available for Mortgage	$8,690	$9,944	$11,198	
Maximum Purchase Price[2]	$134,200	$153,600	$172,900	$157,800
LOW INCOME @ 80% AMI				
Income @ 80% County Median	$53,600	$60,320	$67,040	
Income Allotted to Housing @ 30% of Income	16,080	18,096	20,112	
(Less) Ongoing Expenses[1]	(5,670)	(6,220)	(6,770)	
Income Available for Mortgage	$10,410	$11,876	$13,342	
Maximum Purchase Price[2]	$160,800	$183,400	$206,100	$188,400
MODERATE INCOME @ 110% AMI				
Income @ 110% County Median	$73,700	$82,940	$92,180	
Income Allotted to Housing @ 35% of Income	25,795	29,029	32,263	
(Less) Ongoing Expenses[1]	(7,080)	(7,810)	(8,530)	
Income Available for Mortgage	$18,715	$21,219	$23,733	
Maximum Purchase Price[2]	$289,000	$327,700	$366,500	$336,300

[1] Weighted average: 14% 1BR, 50% 2BR, 36% 3BR
[2] Includes homeowner association dues and property taxes based on unit value.
[3] Debt @ 6.00 % interest (7.19% mortgage constant) & down payment @ 10.00 % of affordable price.

CONDO TABLE 2
RESIDENTIAL PROTOTYPES - CONDOMINIUM PROJECT
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

Development Program

Number of Units	50			
Number of Stories	3	(Max.)		
Total Bldg Sq. Ft.	70,000	sq ft		
Site Size	1.50	acres	65,340	sq ft
Floor-Area-Ratio	1.07			
Dwelling Units/Acre	33	(Max.)		
Construction Type	Type V Wood			

Parking:

Type	One level above, one level below ground. Or, partially underground due to sloping conditions.			
Spaces	100			
Spaces/Unit	2.00			

Unit Mix & Size

One Bedroom	14%	7	1,000	sq ft
Two-Bedroom	50%	25	1,300	sq ft
Three- Bedroom	36%	18	1,700	sq ft
Avg. Unit Size		50	1,400	sq ft

Development Cost

Land ($88 psf)		$115,000
Construction		
Building	$225/SF	$315,000
Parking		$48,000
Sitework/Amenities		$29,000
Total Direct Costs		$392,000
Indirects/Financing		$153,000
City & Impact Fees		$28,000
Total Development Cost Before Profit		$688,000
Total per Sq. Ft		$491
Plus: Developer Profit	12% Costs	$82,000
Total Development Cost With Profit/Sales Price		$770,000
Total per Sq. Ft		$550
Total Construction Cost (Excluding Land & Profit)		$573,000
Total per Sq. Ft		$409

Prototype adapted from proposed condominium projects in Lafayette, including Town Center (04/05), Woodbury Condominiums (04/07), and Lafayette Park Terrace (5/07), adjusted for maximum density and heights permitted under existing zoning.

CONDO TABLE 3
SUMMARY OF NEW CONDOMINIUM UNITS SALE PRICES, APRIL 2007
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	Unit Mix	SF	Price	$/SF	
TOWNHOMES					
Citrus Walk Townhomes, Walnut Creek					
Two Bedroom	12	849	$549,900	$648	HOA: $127
Three Bedroom	15	1,400	$719,900	$514	*(Source: Hanley Wood, 4/07)*
Four Bedroom	7	1,566	$722,900	$462	
Four Bedroom	13	1,818	$799,900	$440	
	47	1,400		$520	
City Oaks Condos, Walnut Creek					
One Bedroom	18	777	$405,000	$521	HOA: $299
Two Bedroom	19	945	$435,000	$460	*(Source: Hanley Wood, 4/07)*
Two Bedroom	22	1,001	$417,000	$417	
Two Bedroom	15	1,010	$496,000	$491	
	74	934		$468	
NEW CONDOMINIUMS					
Proposed "Woodbury" Condos (Hillside Motel site), Lafayette					
Mostly 2 BRs, some 1BRs and 3BRs	80	1,625	$925,000	$569	*Source: Developer (4/07)*
Proposed Lafayette Park Terrace, Lafayette					
Mostly 3 BRs, some 1BRs and 2BRs	28-31	1,400	$770,000	$550	*Source: Rough estimate by Developer (5/07)*
Proposed Town Center Condos, Lafayette					
Two-Bedroom	35	1,400	$756,000	$540	24 Dus/Ac. *Source: KMA (4/05)*
Club Villas, Walnut Creek					
One Bedroom	28	650	$325,000	$500	HOA: $235
One Bedroom	24	700	$335,000	$479	*(Source: Hanley Wood, 4/07)*
Two Bedroom	22	950	$425,000	$447	
Two Bedroom	13	1,050	$420,000	$400	
	87	799		$466	
Mercer, Walnut Creek					
One Bedroom	18	650	$520,000	$800	HOA: $450
One Bedroom Plus Den	18	800	$620,000	$775	*(Source: Hanley Wood, 4/07)*
Two Bedroom	17	1,000	$771,000	$771	
Two Bedroom Plus Den	16	1,075	$925,000	$860	
Three Bedroom	16	1,300	$1,100,000	$846	
	85	954		$809	
The Montecito, Walnut Creek					
One Bedroom	9	710	$434,000	$611	
One Bedroom	8	710	$462,000	$651	
One Bedroom	7	710	$373,000	$525	HOA: $383
One Bedroom	8	710	$399,000	$562	*(Source: Hanley Wood, 4/07)*
One Bedroom Plus Den	8	886	$522,000	$589	Built as luxury apartment units.
One Bedroom Plus Den	8	886	$521,000	$588	
One Bedroom Plus Den	9	886	$429,000	$484	
Two Bedroom	10	960	$563,000	$586	
Two Bedroom	8	960	$549,000	$572	
Two Bedroom	9	960	$644,000	$671	
Two Bedroom	9	960	$595,000	$620	
Two Bedroom	9	960	$609,000	$634	
Two Bedroom Plus Den	9	1,128	$724,000	$642	
	111	885		$596	

CONDO TABLE 4
SUMMARY OF CONDOMINIUM UNIT RESALE PRICES, APRIL '05 TO APRIL '07
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

Address	Yr Built	SF	# Bed	# Bath	Date Sold	Price Sold	$/SF
114 Haslemere Ct	1988	1,638 SF	3	3	12/13/2006	$799,000	$488
151 Haslemere Ct	1987	2,025 SF	3	3	4/25/2006	$892,000	$440
116 Haslemere Ct	1988	2,025 SF	3	3	11/4/2005	$868,000	$429
156 Haslemere Ct	1988	2,025 SF	3	3	9/9/2005	$874,000	$432
150 Haslemere Ct	1988	2,025 SF	3	3	4/28/2005	$875,000	$432
170 Haslemere Ct	1987	2,025 SF	3	3	4/27/2005	$835,000	$412
2 WCreek Ct	1975	1,488 SF	3	2.5	6/15/2006	$741,000	$498
3 WCreek Ct	1975	1,448 SF	3	2.5	3/14/2006	$661,000	$456
3077 Camino Diablo	1979	1,253 SF	2	1.5	10/9/2006	$562,000	$449
3075 Camino Diablo	1979	1,253 SF	2	1.5	4/15/2005	$555,000	$443
3254 Marlene Dr	1972	1,160 SF	3	1.5	2/15/2007	$468,536	$404
3259 Marlene Dr	1972	1,160 SF	3	1.5	8/24/2006	$530,000	$457
3276 Marlene Dr	1972	1,160 SF	3	1.5	7/20/2006	$505,000	$435
3282 Marlene Dr	1981	1,160 SF	3	1.5	11/23/2005	$514,000	$443
3235 Marlene Dr	1972	1,160 SF	3	1.5	10/21/2005	$535,000	$461
3284 Marlene Dr	1981	1,160 SF	3	1.5	6/30/2005	$569,000	$491
3279 Mt Diablo Ct	1987	1,731 SF	3	2.5	2/21/2007	$640,000	$370
3279 Mt Diablo Ct	1987	1,697 SF	3	2	1/12/2007	$569,000	$335
3279 Mt Diablo Ct	1987	1,489 SF	2	2	10/18/2006	$570,000	$383
3279 Mt Diablo Ct	1986	1,731 SF	3	2.5	8/23/2006	$641,000	$370
3279 Mt Diablo Ct	1987	1,332 SF	2	2.5	6/22/2006	$597,500	$449
3279 Mt Diablo Ct	1987	1,731 SF	3	2.5	4/28/2006	$600,000	$347
3279 Mt Diablo Ct	1986	1,731 SF	3	2.5	8/26/2005	$582,000	$336
3704 Highland Rd	1955	1,350 SF	4	2	6/16/2005	$720,000	$533
3711 West Rd	1977	832 SF	1	1.5	11/1/2006	$425,000	$511
944 Dewing Ave	1976	1,278 SF	2	2.5	6/1/2006	$618,000	$484
915 Dewing Ave	1979	865 SF	2	2.5	10/20/2005	$618,000	$714
919 Dewing Ave	1979	877 SF	2	2.5	10/6/2005	$628,000	$716
922 Dewing Ave	1991	976 SF	2	2	9/6/2005	$655,000	$671
944 Dewing Ave	1976	1,296 SF	2	2.5	8/24/2005	$595,000	$459
918 Dewing Ave	1992	1,245 SF	2	2.5	6/14/2005	$650,000	$522
909 Dewing Ave	1979	1,294 SF	2	2.5	6/3/2005	$630,000	$487
921 Dewing Ave	1979	1,311 SF	2	2.5	5/27/2005	$533,000	$407
917 Hough Ave	1969	1,038 SF	2	1.5	5/11/2005	$515,000	$496
917 Hough Ave	1969	1,038 SF	2	1.5	4/4/2005	$515,000	$496
931 Mountain View Dr	1983	1,646 SF	3	3	10/27/2006	$675,000	$410
931 Mountain View Dr	1983	1,401 SF	2	2.5	8/11/2005	$649,000	$463
AVERAGES	# Units Sold						
	37	1980	1,407 SF	2.6	2.2	$632,677	$463

Prepared by Keyser Marston Associates, Inc.
File name: 15140.005/Lafayette IHP- 5_23_07.xls;CT4 Condo Resales;6/29/2007;hgr

CONDO TABLE 5
MARKET AND AFFORDABLE SALES PRICES, AVERAGE UNIT
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

CONDOMINIUM UNITS	Avg. Size (SF)	Income Target % AMI[1]	Weighted Average Annual HH Income[2]	Weighted Average Sales Price	Avg. Sales Price (/SF)
Market Units	1,400	198%	$149,000 [3]	$770,000	$550 [4]
Affordable Units[5]					
Very Low Income (50% AMI)	1,400	50%	$38,600	$96,700	$69
Low Income (70% AMI)	1,400	70%	$54,100	$157,800	$113
Moderate Income (110% AMI)	1,400	110%	$85,000	$336,300	$240

[1] AMI= Area Median Income.
[2] Weighting based on the unit mix shown in Table A1.
[3] For market rate units, assumes 30% income needed for mortgage payments (typical 20% down, 6% int., 30-yr.)
[4] Based on recent sales/resales.
[5] See Condo Table 1 for household income, expenses and maximum home sales price for affordable units.

CONDO TABLE 6
AFFORDABILITY GAP PER UNIT - AVERAGE CONDOMINIUM UNIT
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

CONDOMINIUM UNITS

Target Income Level	Sales Price Per Unit	Construction Cost/Unit[1]	Affordability Gap Per Unit	Affordability Gap Per SF
Very Low Income (50% AMI)	$96,700	$573,000	($476,300)	**($340)**
Low Income (70% AMI)	$157,800	$573,000	($415,200)	**($300)**
Moderate Income (110% AMI)	$336,300	$573,000	($236,700)	**($170)**

1. Does not include land or developer profit. See Condo Table 2.

CONDO TABLE 7
ILLUSTRATIVE IN-LIEU FEE EQUIVALENTS
CONDOMINIUM UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

CONDOMINIUM UNITS

		Per Unit	*Per SF*
Average Unit Size	1,400 SF		
Market Rate		$770,000	$550
10% Affordability Program [1]			
Low Income (70% AMI)			
Affordable Sales Price		$157,800	$113
Affordability Gap [2]		($415,200)	($297)
In-Lieu Fee Equivalents (Per Market Rate Unit)		($41,520)	($30)
Moderate Income (110% AMI)			
Affordable Sales Price		$336,300	$240
Affordability Gap [2]		($236,700)	($169)
In-Lieu Fee Equivalents (Per Market Rate Unit)		($23,670)	($17)
Blended Low & Mod (Equal Mix)			
Affordable Sales Price		$247,050	$176
Affordability Gap [2]		($325,950)	($233)
In-Lieu Fee Equivalents (Per Market Rate Unit)		($32,595)	($23)

[1] In-lieu fee equivalents equal per unit gap on Condo Table 6 multiplied by 10%.
[2] Affordability gap does not include land or developer profit.

SFD TABLE 1
ESTIMATED AFFORDABLE HOUSING PRICES
SINGLE FAMILY DETACHED UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	3-Bdrm *(4-Person HH)*	4-Bdrm *(5-Person HH)*	5-Bdrm *(6-Person HH)*
MODERATE INCOME (@ 110% AMI) [1]			
Income @ 110% County Median	**$92,180**	**$99,550**	**$106,920**
Income Allotted to Housing @ 35% of Income	**32,263**	**34,843**	**37,422**
(Less) Ongoing Expenses [2]	**(5,410)**	**(5,870)**	**(6,330)**
Income Available for Mortgage	**$26,853**	**$28,973**	**$31,092**
Affordable Sales Prices [3]	**$414,700**	**$447,400**	**$480,200**

[1] AMI = Area Median Income.

[2] Includes insurance and property taxes (estimated at 1.1% of unit value).

[3] Debt @ 6.00 % interest (7.19% mortgage constant) & down payment @ 10.00 % of affordable price.

SFD TABLE 2
ILLUSTRATIVE AFFORDABLE SALES PRICE PER SQUARE FOOT
SINGLE FAMILY DETACHED UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

SINGLE FAMILY DETACHED UNITS	3-BEDROOM *(4-Person HH)*	4-BEDROOM *(5-Person HH)*	5-BEDROOM *(6-Person HH)*
Affordable Sales Price (@ 110% AMI) *(From Table C-2)*	$414,700	$447,400	$480,200
Sales Price Per Square Foot			
Small-Size Units	1,650 SF	1,800 SF	1,950 SF
$/SF	$251/SF	$249/SF	$246/SF
Mid-Size Units	2,200 SF	2,500 SF	2,700 SF
$/SF	$189/SF	$179/SF	$178/SF
Large-Size Units	3,000 SF	3,500 SF	4,000 SF
$/SF	$138/SF	$128/SF	$120/SF

SFD TABLE 3
SUMMARY OF SINGLE FAMILY DETACHED NEW UNIT SALES
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

NEW SINGLE FAMILY PROJECTS

	Date Sold	Lot SF	Bldg. SF	Price	$/SF
Hidden Oaks, Lafayette					
34 Sanford Lane	January 2007	21,500	3,861	$2,400,000	$622
55 Hidden Oaks	October 2006	23,200	4,311	$2,800,000	$650
25 Samantha Dr.	August 2006	27,440	4,427	$2,625,000	$593
21 Samantha Dr.	July 2006	35,200	4,619	$2,650,000	$574
56 Hidden Oaks	June 2006	28,630	4,619	$2,925,000	$633
23 Sanford Lane	June 2006	29,580	4,250	$2,825,000	$665
22 Sanford Lane	April 2006	22,600	3,538	$2,350,000	$664
		26,879	4,232	$2,653,571	$627
Other New Single Family, Lafayette					
25 Ariey Ln	January 2006	14,770	3,900	$1,795,000	$460
101 Jordan Place	April 2005	10,019	3,355	$1,650,000	$492
3626 Brook St.	July 2005	22,950	3,974	$2,375,000	$598
4015 Happy Valley	December 2005	42,427	6,011	$4,100,000	$682
1066 N Thompson R	July 2006	16,553	2,790	$1,485,000	$532
1111 Via Media	April 2006	28,690	3,919	$1,929,000	$492
1111 Rahara Dr.	October 2005	38,533	4,080	$2,700,000	$662
1107 Rahara Dr.	April 2006	32,490	3,352	$2,400,000	$716
		25,804	3,923	$2,304,250	$587
Overall Average		26,305	4,067	$2,467,267	$602

Source: RealQuest, April 2007

SFD TABLE 4
ESTIMATED MARKET SALES PRICE PER UNIT
SINGLE FAMILY DETACHED UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

SINGLE FAMILY DETACHED UNITS	3-BEDROOM *(4-Person HH)*	4-BEDROOM *(5-Person HH)*	5-BEDROOM *(6-Person HH)*
Market Sales Prices Per SF	*@ $610/SF*	*@ $600/SF*	*@ $590/SF*
Small-Size Units	1,650 SF	1,800 SF	1,950 SF
Sales Price Per Unit	$1,006,500	$1,080,000	$1,150,500
Mid-Size Units	2,200 SF	2,500 SF	2,700 SF
Sales Price Per Unit	$1,342,000	$1,500,000	$1,593,000
Large-Size Units	3,000 SF	3,500 SF	4,000 SF
Sales Price Per Unit	$1,830,000	$2,100,000	$2,360,000

Source: Based on 2005 - 2007 single family home sales in Lafayette (SFD Table 3.)

SFD TABLE 5
ILLUSTRATIVE AFFORDABLE GAP
SINGLE FAMILY DETACHED UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

SINGLE FAMILY DETACHED UNITS	3-BEDROOM *(4-Person HH)*	4-BEDROOM *(5-Person HH)*	5-BEDROOM *(6-Person HH)*
Market Sales Prices Per SF	$610	$600	$590
Affordable Sales Price (@ 110% AMI)			
Small-Size Units	1,650 SF	1,800 SF	1,950 SF
Affordable Sales Price Per SF [1]	$251	$249	$246
Affordability Gap Per SF [2]	$359	$351	$344
Affordability Gap Per Unit	$591,800	$632,600	$670,300
Mid-Size Units	2,200 SF	2,500 SF	2,700 SF
Affordable Sales Price Per SF [1]	$189	$179	$178
Affordability Gap Per SF [2]	$422	$421	$412
Affordability Gap Per Unit	$927,300	$1,052,600	$1,112,800
Large-Size Units	3,000 SF	3,500 SF	4,000 SF
Affordable Sales Price Per SF [1]	$138	$128	$120
Affordability Gap Per SF [2]	$472	$472	$470
Affordability Gap Per Unit	$1,415,300	$1,652,600	$1,879,800

[1] See SFD Table 2.
[2] Difference between Market and Affordable Prices.

SFD TABLE 6
ILLUSTRATIVE IN-LIEU FEE EQUIVALENTS
SINGLE FAMILY DETACHED UNITS
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

SINGLE FAMILY DETACHED UNITS	3-BEDROOM *(4-Person HH)*	4-BEDROOM *(5-Person HH)*	5-BEDROOM *(6-Person HH)*
10% Affordability Program [1]			
Small-Size Units	1,650 SF	1,800 SF	1,950 SF
In-Lieu Fee Equivalents	$59,180	$63,260	$67,030
In-Lieu Fee Equivalents Per SF	$36	$35	$34
Mid-Size Units	2,200 SF	2,500 SF	2,700 SF
In-Lieu Fee Equivalents	$92,730	$105,260	$111,280
In-Lieu Fee Equivalents Per SF	$42	$42	$41
Large-Size Units	3,000 SF	3,500 SF	4,000 SF
In-Lieu Fee Equivalents	$141,530	$165,260	$187,980
In-Lieu Fee Equivalents Per SF	$47	$47	$47

[1] Unit gap on SFD Table 5 multiplied by 10%.

APARTMENT TABLE 1
ESTIMATED MAXIMUM AFFORDABLE RENTS
VERY-LOW, LOWER AND MODERATE INCOME HOUSEHOLDS
APARTMENT UNITS - ONE AND TWO BEDROOMS, WEIGHTED AVERAGE
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	1-Bdrm	2-Bdrm	Weighted Average[2]
Very-Low Income			
Income @ 50% County Median	$33,500	$37,700	
% of Income Allotted to Housing	30.00%	30.00%	
Monthly Housing Expenses	$838	$943	
(Less) Utilities Expenses [1]	(102)	(130)	
Monthly Rent	$740	$810	$760
Lower Income			
Income @ 60% County Median	$40,200	$45,240	
% of Income Allotted to Housing	30.00%	30.00%	
Monthly Housing Expenses	$1,005	$1,131	
(Less) Utilities Expenses [1]	(102)	(130)	
Monthly Rent	$900	$1,000	$930
Moderate Income			
Income @ 110% County Median	$73,700	$82,940	
% of Income Allotted to Housing	30.00%	30.00%	
Monthly Housing Expenses	$1,843	$2,074	
(Less) Utilities Expenses [1]	(102)	(130)	
Monthly Rent	$1,740	$1,940	$1,800

[1] Utility expenses based on the Contra Costa Housing Authority estimate for tenant furnished utilities and other services (dated April 2005, provided April 2007). Expenses will vary by project and type of utilities.

[2] Weighting based on 30% one bedroom units and 70% two bedroom units.; see Apartment Table 4.

APARTMENT TABLE 2
CURRENT APARTMENT RENTS, APRIL 2007
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	Yr Built	Stories	Units	Unit Size	Rents	Rent Per SF
City of Lafayette						
Town Center	2001	4	75			
One Bedroom				800 - 1,000	$1,695 - $1,825	$1.83/SF - $2.12/SF
Two Bedroom				1,100 - 1,300	$1,900 - $2,550	$1.73/SF - $1.96/SF
Lafayette Highlands	1973	2	151			
One Bedroom				750	$1,595	$2.13/SF
Two Bedroom				950 - 1,050	$1,775 - $1,895	$1.80/SF - $1.87/SF
Three Bedroom				1,300 - 1,300	$2,375 - $2,400	$1.83/SF - $1.85/SF
Lafayette Oaks	1964	2	32			
One Bedroom				650	$995	$1.53/SF
Two Bedroom				1,050 - 1,050	$1,295 - $1,295	$1.23/SF - $1.23/SF
Three Bedroom				1,150 - 1,150	$1,650 - $1,650	$1.43/SF - $1.43/SF
Park Lafayette	1970	2	67			
One Bedroom				750 - 750	$1,255 - $1,400	$1.67/SF - $1.87/SF
Two Bedroom				825 - 1,025	$1,455 - $1,495	$1.46/SF - $1.76/SF

Source: Rent.com April 2007.

APARTMENT TABLE 3
AFFORDABLE RENT LEVELS
APARTMENT UNITS - ONE AND TWO BEDROOMS, WEIGHTED AVERAGE
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

	Income Target % AMI [1]	Weighted Average Household Annual Household Income [2]	Weighted Average Household Rent per Month [3]
Market Rent			
Existing Market Rents	102%	$77,000	$1,800
Rent Required by New Projects in Lafayette	150%	$113,000	$2,695
Affordable Rent			
Very-Low Income	50%	$34,800	$760
Lower Income	60%	$41,700	$930
Moderate Income	110%	$76,500	$1,800

[1] Based on Town Center Apartment, Lafayette Highlands, Lafayette Oaks, and Park Lafayette data, updated 4/07.
[2] Assumes rent + utilities = approximately 30% of annual household income
[3] See Apartment Table 1 for household income, utility allowance by unit size, rent calculations.

APARTMENT TABLE 4
RESIDENTIAL PROTOTYPES - APARTMENT PROJECT
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

Development Program

Number of Units	50			
Number of Stories	3 stories over garage			
Total Bldg. Sq. Ft.	47,570	sq ft		
Site Size	1.50	acres	65,340	sq ft
Floor-Area-Ratio	0.73			
Dwelling Units/Acre	33	(MF "Medium High")		
Construction Type	Wood over Podium Garage			
Parking:				
Type	Above ground			
Spaces	69			
Spaces/Unit	1.37			
Unit Mix & Size				
One Bedroom	70%	35	880	sq ft
Two-Bedroom	30%	15	1,118	sq ft
Average Unit Size:			951	sq ft

Development Cost

Land ($40 psf)		$52,000
Construction		
Building	$180/SF	$171,000
Parking		$27,000
Sitework/Amenities		$29,000
Total Direct Costs		$227,000
Indirects/Financing		$55,000
City & Impact Fees		$25,000
Total Development Cost		$359,000
Total per Sq. Ft		$377
Total Construction Cost (Excluding Land)		$307,000
Total per Sq. Ft		$323

Prototype adapted from existing Town Center Apts.- Phase I (2001) and other projects. adjusted for maximum density and heights permitted under existing zoning. Adjusted for costs to 2007.

APARTMENT TABLE 5
UNIT VALUES SUPPORTED BY RENTS
APARTMENT UNITS - ONE AND TWO BEDROOMS, WEIGHTED AVERAGE
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

APARTMENT-TYPE PROJECT	Rent		Less Op Exp[1]	NOI	Unit Value Supported[2]
	Month	Year			
Market Rents for Feasibility	$2,695	$32,340	($9,000)	$23,340	$359,000
Affordable					
Very-Low Income	$760	$9,120	($9,000)	$120	$1,800
Lower Income	$930	$11,160	($9,000)	$2,160	$33,200
Moderate Income	$1,800	$21,600	($9,000)	$12,600	$193,800

1 General operating expenses based on average operating expenses from similar size apartment projects.
Property taxes are based on market rate unit value - property tax exemption is NOT assumed in this analysis.

2 Net operating income capitalized at 6.5%. Rounded to nearest 100. Operating expenses include common area maintenance and utilities, water and refuse collection, management , capital reserves, and vacancy.

APARTMENT TABLE 6
AFFORDABILITY GAPS PER UNIT
APARTMENT UNITS - ONE AND TWO BEDROOMS, WEIGHTED AVERAGE
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

APARTMENT-TYPE PROJECT	Unit Size (SF)	Value Supported Per Unit	Development Cost/Unit	Affordability Gap Per Unit	Per SF
Very-Low Income	951	$1,800	($359,000)	($357,200)	**($380)**
Lower Income	951	$33,200	($359,000)	($325,800)	**($340)**
Moderate Income	951	$193,800	($359,000)	($165,200)	**($170)**

APARTMENT TABLE 7
ILLUSTRATIVE IN-LIEU FEE EQUIVALENTS
APARTMENT UNITS - ONE AND TWO BEDROOMS, WEIGHTED AVERAGE
INCLUSIONARY HOUSING PROGRAM ANALYSIS
CITY OF LAFAYETTE, CA

SINGLE FAMILY DETACHED UNITS

		Per Unit	*Per SF*
Average Unit Size	951 SF		
Market Rate		$359,000	$377
10% Affordability Program [1]			
Very Low-Income (50% AMI)			
Affordable Unit Value		$1,800	$2
Affordability Gap		($357,200)	($375)
In-Lieu Fee Equivalents		($35,720)	($38)
Low-Income (60% AMI)			
Affordable Unit Value		$33,200	$35
Affordability Gap		($325,800)	($342)
In-Lieu Fee Equivalents		($32,580)	($34)
Moderate Income (110% AMI)			
Affordable Unit Value		$193,800	$204
Affordability Gap		($165,200)	($174)
In-Lieu Fee Equivalents		($16,520)	($17)
Blended Very Low (3.3%), Low (3.3%) & Mod (3.3%)			
Affordable Unit Value		$76,267	$80
Affordability Gap		($282,733)	($297)
In-Lieu Fee Equivalents		($28,273)	($30)

[1] In-lieu fee equivalents equal per unit gap on Apartment Table 6 multiplied by 10%.